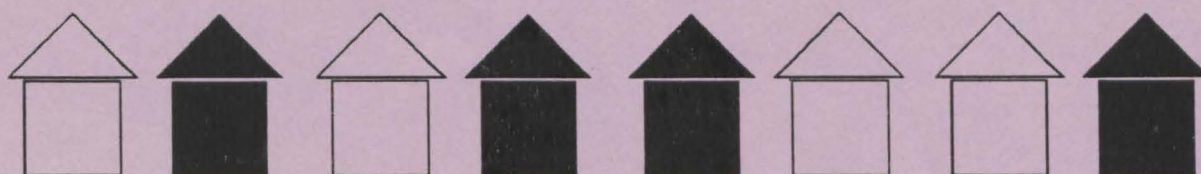


# **Analysis of Impediments to Fair Housing Choice in the City of Minneapolis**

prepared by  
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February 1996





## ACKNOWLEDGMENTS

Many individuals were contacted in efforts to obtain accurate information regarding fair housing opportunities in Minneapolis. I thank everyone who spoke with me or mailed me information for this project. I would especially like to thank two Board Members of the Minnesota Fair Housing Center: Margaret Shulman, from Community Action of Minneapolis, and Fred Smith, from the Center for Urban and Regional Affairs at the University of Minnesota. Both individuals have been tremendously helpful in compiling resources for the analysis and in assisting with the editing process.

Other individuals who have been particularly helpful in putting the analysis together have been John Powell, from the Institute on Race and Poverty at the University of Minnesota, and Joe Stahl, the author of *Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Inventory*. Also, the City of Minneapolis Planning Department, Urban Coalition, and Joe Stahl have graciously allowed me to use several maps in this document that they have created for other purposes. The sources of maps not originally created for this document are identified at the point they appear in the paper.

Art Higgins, the Executive Director of the Minnesota Fair Housing Center, and Christy Snow, Program Assistant at the Minnesota Fair Housing Center, have also been helpful in organizing focus groups to discuss fair housing ideas which may be incorporated into recommendations for city planners and policy makers.

I thank everyone for their assistance in this project.

U.S. Department of Housing and Urban Development (DHUD) Community Development Block Grant (CDBG) funds were used to pay for part of this report.

The content of this report is the responsibility of the author.

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## SUMMARY OF FINDINGS

Within Hennepin County, Minneapolis has disproportionately high numbers of people of color and low income households. Within the city, groups of people protected under fair housing laws are concentrated disproportionately in a few communities.

This analysis identifies housing practices and policies in the metro area and examines the role such practices and policies might play in segregating groups of people.

The report follows the guidelines for analysis developed by the US Department of Housing and Urban Development.

Some of the major findings in the *Analysis of Impediments to Fair Housing Choice in Minneapolis* study are:

♦ **THE NUMBER OF FAIR HOUSING COMPLAINTS TO PUBLIC AGENCIES IS LOW; FUNDING FOR FAIR HOUSING ENFORCEMENT IS LIMITED**

The number of fair housing complaints filed with the Minneapolis Department of Civil Rights has been between 41 & 67 cases yearly for each of the past five years.<sup>1</sup> A few fair housing complaints arising in Minneapolis were filed with the Minnesota Department of Human Rights over the past three years: 1, 6, and 14 cases were filed for years 1993-1995 respectively.<sup>2</sup> HUD reports that 319 fair housing complaints were filed in Hennepin County (including Minneapolis) from 1990 through mid 1994.

Funding for fair housing enforcement by public agencies is inadequate. Agencies have difficulty maintaining sufficient staff because of limited funding.<sup>3</sup> This leads to lengthy investigations in which complainants may get discouraged, move, or withdraw their complaints.

Another possible explanation for the low number of fair housing complaints is that people may be unaware of discrimination when seeking housing. Landlords may exclude home seekers by saying apartments are unavailable when they are available, or by rejecting applicants based on credit histories when other applicants with similar histories are accepted.

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<sup>1</sup> Information obtained from Bill Prock, Minneapolis Department of Civil Rights, Fall 1995.

<sup>2</sup> Information obtained from Delores Fridge, Minnesota Department of Human Rights, Winter 1995.

<sup>3</sup> Washington, Wayne & Woods, Willard. (1994, January 9). Civil Rights Enforcement Falls Behind; Agencies Cite Lack of Staff and Money. Minneapolis Star Tribune, p. 1A.

Another possible reason for the low number of complaints may be that people have neither the time nor the resources to pursue fair housing complaints. For home seekers, the immediate pressure of finding a place to live supersedes a desire to advocate for fair housing.

◆ **BARRIERS TO RENTAL HOUSING ARE WORSENING FOR PROTECTED STATUS PEOPLE**

Concern is rising among fair housing advocates over the increasing use of practices by landlords to screen applicants for rental housing in Minneapolis. The concern is that protected class people are more likely than other groups to be excluded by these practices.

One practice is the use of application fees. Landlords are charging fees of approximately \$20- \$30 purportedly to run background checks on prospective renters. Landlords claim that they are running checks to ensure that applicants are honest and acceptable. There is, however, no law requiring landlords who charge application fees to in fact use them to process rental applications.<sup>4</sup> These fees may be used as a way of weeding out lower income households. Protected class people, such as those on public assistance, find that the fees are too high to pay and are precluded from applying.

A second barrier for some protected class people is the practice by landlords of setting income admission standards. It is becoming common for landlords to require applicants to have minimum monthly incomes of two and a half times the monthly rent. This requirement often excludes families and almost always excludes those on public assistance from the pool of applicants because their incomes fall below the income standard.

A third barrier for protected class people is the practice by landlords of setting minimum occupancy requirements.<sup>5</sup> Landlords are creating more restrictive rules than in previous years to limit the number of people who can live in one apartment. For example, a common restriction is that children of different genders cannot share the same room if one of them is school age or that people cannot sleep in rooms other than bedrooms. Landlords claim the limits are set to ensure that units are not overused. Larger families and those on public assistance are especially hurt by the requirements as they often do not have enough money to rent larger units.

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<sup>4</sup> Buchta, Jim. (1994, November 4). Application Fees Raise Concern As More Landlords Require Them; Debate About their Use Grows. Minneapolis Star Tribune, p. 4H.

<sup>5</sup> Wilkinson, Jay. (1995, November 22.) Memo: Minneapolis Impediments Study. Legal Aid Society.



◆ **DISCRIMINATORY LENDING, APPRAISAL AND REDLINING PRACTICES CONTINUE TO OCCUR**

Studies cited in the *Analysis* indicate that discriminatory lending continues to occur in Minneapolis. 1992 and 1993 studies show that people of color, who have protected class status under fair housing laws, continue to be routinely rejected in the mortgage lending process more often than white people.<sup>6</sup>

Incidents of discriminatory appraisal values and underwriting practices are also noted in the *Analysis*. For example, a property in Minneapolis was undervalued by suburban realtors who were influenced by stereotypical images of neighborhoods within the city.<sup>7</sup> This type of practice has the effect of limiting the value of housing owned by people of color, families, those on public assistance and others who live in the city. Those in undervalued homes have difficulty securing loans from lenders.

While the practice of redlining is illegal, recent studies show that discriminatory bank investment patterns and practices continue. A 1994 nationwide study found that widespread discrimination by banks occurs in neighborhoods with high concentrations of people of color and/or low income people.<sup>8</sup> Bank branches continue to move out of neighborhoods with high poverty levels; insurance companies charge higher homeowner's insurance rates for people of color and low income people; and the number of home mortgage loans for people of color continues to be far below those for white people.<sup>9</sup> A study done in 1993 showed that insurance redlining in Minneapolis continues. Home insurance rate discrepancies were consistently recorded in Minneapolis neighborhoods with higher percentages of people of color than in neighborhoods with a high percentage of white people.<sup>10</sup>

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<sup>6</sup> Association of Community Organization for Reform Now. (1993). Treading Water: Racial Disparities in Home Mortgage Lending in 23 Cities: 1990- 1992. Washington DC.

Also, Myers Jr., Samuel. Disparities in Mortgage Lending in the Upper Midwest: Summary of Results Using 1992 Home Mortgage Disclosure Act Data.

<sup>7</sup> Meter, Ken. (1990, April). How Do You Know if You're Being Redlined? A Realtor Explains. Behind the Red Line: The Alley, p. 12.

<sup>8</sup> Loeb, Penny, Cohen, Warren, & Johnson, Constance. (1995, April 17). The New Redlining. US News and World Report, pp. 51-56, 58.

<sup>9</sup> Ibid, pp. 51-56, 58.

<sup>10</sup> St. Anthony, Neal & Sundstrom, Ingrid. (1993, February 5). Insurance Redlining in Alleged: Group Says Low Income Homeowners are Frozen Out. Minneapolis Star Tribune, p. 1B.

♦ **PUBLIC POLICIES REGARDING MUNICIPAL RESOURCES, LAND USE AND ZONING IMPACT FAIR HOUSING CHOICES**

Distribution of municipal resources by the Metropolitan Council on a seven county metro wide basis affects the way in which Minneapolis as a city receives funding for development projects. In the 1980's, the Metropolitan Council chose to spend money on infrastructure development in developing suburbs which led to job growth in those areas.<sup>11</sup> On the other hand, Minneapolis is working to retain jobs and housing in the city.

The Metropolitan Council proposes a more even distribution of affordable housing throughout the metro area but has limited ability to enforce housing standards. It has outlined affordability standards and programs for local entities;<sup>12</sup> however not all entities have chosen to cooperate with these efforts.<sup>13</sup> While Minneapolis has provided more affordable units by far than other cities in Hennepin County, even Minneapolis has not met the Council's fair share goals for additional affordable housing units. Nonetheless, with the largest stock of affordable units, Minneapolis serves as a magnet for lower income households.

♦ **THE USE OF THE NEIGHBORHOOD REVITALIZATION PROGRAM FOR HOUSING DEVELOPMENT NEEDS TO BE CLOSELY EVALUATED TO DETERMINE ITS IMPACT ON PROTECTED CLASS PEOPLE**

In 1991 the City of Minneapolis implemented a Neighborhood Revitalization Program (NRP) with goals of building neighborhood capacity, creating a sense of community, redesigning public service, and increasing government collaboration.<sup>14</sup> Under the program, neighborhood groups work with government to develop plans that address the needs of specific communities. Money is allocated to the groups based on designated needs. Fifty two and a half percent of NRP funding must be dedicated to "housing programs and related purposes."

Since the project began, controversy has arisen over how neighborhood decision-making processes work. One study of the NRP suggests that low income people are

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<sup>11</sup> Stahl, Joseph, G. (1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory.

<sup>12</sup> (1994, September). Regional Blueprint: Twin Cities Metropolitan Area. Metropolitan Council, p. I.

<sup>13</sup> Neighborhood Revitalization Plan. (1995, March). Building Community Partnerships: The Minneapolis Neighborhood Revitalization Program Progress Report, pp. 1-2.

<sup>14</sup> Fainstein, Susan S., Hirst, Charles, & Tennebaum, Judith. (1995, January 9). An Evaluation of the Minneapolis Neighborhood Revitalization Program. Center for Urban Policy Research- Rutgers, The State University of New Jersey, p. 68.

not adequately represented. The structure of neighborhood organizations may tend to exclude participation of protected class persons.

♦ **THE HOLLMAN CONSENT DECREE MAY SIGNIFICANTLY AFFECT THE DISTRIBUTION OF PROTECTED CLASS HOUSEHOLDS IN HENNEPIN COUNTY**

A lawsuit was filed by the Minneapolis NAACP and Minneapolis public housing residents against the City of Minneapolis, the Metropolitan Council, the Department of Housing and Urban Development, the Minneapolis Public Housing Authority, and the Minneapolis Community Development Association. The suit alleged racial discrimination in the administration of public housing and Section 8 programs. A consent decree was entered into by the parties and filed with the court in April 1995. Terms of the settlement include the demolition of certain Near North neighborhood public housing sites and the dispersal of low income housing around the city and surrounding suburbs. The locations of the replacement housing has not yet been determined. The settlement also provides for \$100 million from HUD to aid in the resettlement process. The deadline for total replacement is set for 2001.

♦ **NEW RESOURCES MAY INCREASE FAIR HOUSING ENFORCEMENT**

Minneapolis has two newer programs that will aid in the assistance of fair housing provision. The Legal Aid Society's Housing Discrimination Law Project has been operating since 1995 and is working to provide legal assistance to low income individuals who feel they may be discriminated against in housing matters. Another new resource is the Minnesota Fair Housing Center. Working with a broad array of people and programs in the public and private sector, the agency works to promote housing enforcement by providing testing for possible fair housing violations and helping to organize community campaigns.



## RECOMMENDATIONS FOR ACTION

This section was written by the author and Margaret Shulman based on recommendations proposed in a series of four focus groups held at the Minnesota Fair Housing Center in January and February 1996. (Names of focus group participants are listed at the end of the recommendations.) Additional suggestions and alterations were also made by the following: Fred Smith, CURA; Art Higgins, Minnesota Fair Housing Center; John Powell, Institute on Race and Poverty and Sam Myers Jr., Humphrey Institute of Public Affairs. We thank them for their assistance.

In its *Fair Housing Planning Guide*, HUD encourages jurisdictions to communicate findings and recommendations to top policy makers, key government staff, community organizations and the general public. Copies of the analysis will be distributed to Minneapolis City Council members and staff in the Minneapolis Planning Department. Copies will also be made available to community organizations and the general public at the Minnesota Fair Housing Center, 2414 Park Ave. So., Minneapolis (phone 872-6088; fax 871-0354).

As a follow up to the *Analysis*, HUD encourages jurisdictions to create plans to implement the recommendations. The following recommendations for action are offered for adoption. After adopting recommendations, the City of Minneapolis is responsible for setting time lines for implementation. All interested parties willing to assist in implementing fair housing recommendations should contact Art Higgins, Minnesota Fair Housing Center, or the Minneapolis Planning Department.

The recommendations for action, developed from the summary of findings, are:

### **FINDING # 1: THE NUMBER OF FAIR HOUSING COMPLAINTS TO PUBLIC AGENCIES IS LOW; FUNDING FOR FAIR HOUSING ENFORCEMENT IS LIMITED.**

#### **Recommendation:**

**Increase education and training about fair housing rights and increase access to the enforcement process.**

- ◆ Provide ongoing fair housing training and education to housing advocates.

**WHO:** Minnesota Fair Housing Center, MN Department of Human Rights, Minneapolis Department of Civil Rights, Housing Discrimination Law Project, ACORN, HUD.

- ◆ Make the public agency complaint process user friendly, especially for those who may need additional support because of disability, illiteracy, English as a second language, etc. Consider reducing amount of paperwork and number of office visits for complainant, increasing the number of fair housing staff, and partnering with other organizations for screening and preliminary testing.

**WHO:** HUD, Minneapolis Department of Civil Rights, MN Department of Human Rights.

- ◆ Maintain accurate records at public agencies not only of discrimination complaints filed but also of inquiries to better estimate the need for services.

**WHO:** HUD, Minneapolis Department of Civil Rights, MN Department of Human Rights

- ◆ Design and implement a comprehensive system for referrals to encourage more private attorneys to develop fair housing practices.

**WHO:** Minnesota Fair Housing Center, Housing Discrimination Law Project, housing advocates

**Recommendation:**

**Publicize information about fair housing cases.**

- ◆ Make public the favorable outcomes of fair housing cases.

**WHO:** Minnesota Fair Housing Center with information from HDLP, public agencies, private attorneys

- ◆ Use a variety of media to promote coverage of the nature and extent of housing discrimination.

**WHO:** Individuals, housing advocates, Minnesota Fair Housing Center, Housing Discrimination Law Project, media access efforts

**FINDING # 2: BARRIERS TO RENTAL HOUSING ARE WORSENING FOR PROTECTED STATUS PEOPLE.**

**Recommendation:**

**Reduce the costs of securing rental housing.**

- ◆ Implement a policy for apartment seekers to pay a one time fee for a rental/credit/criminal history check to be used for all rental applications within a six month period.

**WHO:** City of Minneapolis with collaboration from private credit check agencies and housing advocates

- ◆ Create a third party fund for damage deposits to assure timely and fair return of deposits.

**WHO:** MN State Legislature with assistance from Minnesota Tenants Union, Community Action of Suburban Hennepin County, ACORN, Minnesota Fair Housing Center

- ◆ Prohibit housing discrimination based on Section 8 status.

**WHO:** MN State Legislature with assistance from Housing Discrimination Law Project, Institute on Race and Poverty, Minnesota Fair Housing Center, ACORN

**Recommendation:**

**Increase the number of units of affordable housing based on the need in the city; work with surrounding communities to increase number of units of affordable housing based on the need in the region.**

- ◆ Assure that each community within the city has a balance of affordable units.

**WHO:** City Council, Neighborhood Revitalization Program, Family Housing Fund

- ◆ Monitor all HUD accessibility requirements. For example, a minimum of five percent of federally funded new units must be accessible to people with mobility limitations. See 24 CFR § 8.22 (b). In addition, five percent of units that are altered with federal



funds, to the maximum extent feasible, must be readily accessible to people with disabilities. See 24 CFR § 8.23 (b) (1). HUD may prescribe a higher percentage for altered units if census data demonstrates a higher percentage of people with disabilities in the community. See 24 CFR § 8.23 (b) (2). In Minneapolis, 9.1 percent of the population has mobility or self care limitations.

**WHO:** Minneapolis Advisory Committee on People With Disabilities, Minnesota State Council on Disability, Minnesota Fair Housing Center

**FINDING #3: DISCRIMINATORY LENDING, APPRAISAL, AND REDLINING PRACTICES CONTINUE TO OCCUR.**

**Recommendation:**

**Monitor on an annual basis the practices of lenders, insurers and appraisers.**

- ◆ Provide regular, on going documentation of aggregate levels of discrimination by lenders, insurers and appraisers.

**WHO:** Minnesota Fair Housing Center, Institute on Race and Poverty, Center for Urban and Regional Affairs, Humphrey Institute of Public Affairs

- ◆ Provide regular, on going documentation of discrimination by lenders, insurers and appraisers analyzed by racial group, by specific provider and by neighborhood.

**WHO:** Minnesota Fair Housing Center, Institute on Race and Poverty, Center for Urban and Regional Affairs, Humphrey Institute of Public Affairs

- ◆ Identify specific problem areas with aggregate and disaggregate data based on practices of lenders, insurers and appraisers, and conduct on going, systematic tests in targeted areas. Publicize results of tests.

**WHO:** Minnesota Fair Housing Center, Institute on Race and Poverty, Center for Urban and Regional Affairs, Humphrey Institute of Public Affairs

**Recommendation:**

**Recommit to use services of only those banks with excellent CRA and HMDA records, with affirmative hiring practices, and with branches in lower income communities and communities of color.**

**WHO: City Council, City Finance Department**

**FINDING # 4: PUBLIC POLICIES REGARDING MUNICIPAL RESOURCES, LAND USE AND ZONING AFFECT FAIR HOUSING CHOICES.**

**Recommendation:**

**Promote zoning standards and procedures that are inclusive.**

- ◆ Create an interdepartmental city commission to develop specific findings on how current zoning and code enforcement programs affect housing affordability and develop recommendations to mitigate negative effects.

**WHO: City of Minneapolis Planning Department, Office of Inspections, etc.**

- ◆ Permit broader and more flexible mixed use zoning.

**WHO: City Council with input from Zoning Commission**

- ◆ Permit accessory apartments in single family districts. Determine and promote ways of making modifications to existing homes so growing families can stay in their neighborhoods.

**WHO: City Council with input from Zoning Commission**

- ◆ Advocate consistently and continually for region wide zoning and land use standards.

**WHO: City Council and appropriate city departments**

**FINDING #5: THE USE OF THE NEIGHBORHOOD REVITALIZATION PROGRAM FOR HOUSING DEVELOPMENT NEEDS TO BE CLOSELY EVALUATED TO DETERMINE ITS IMPACT ON PROTECTED CLASS PEOPLE.**

**Recommendation:**

**Ensure that the NRP process includes all neighborhood residents.**

- ◆ Encourage the use of NRP monies for outreach to renters, seniors, and others who may not currently be included in the neighborhood planning process.
- ◆ Assure that NRP CARE and SAFE program materials address both renters and landlords concerns.
- ◆ Promote the use of a substantial amount of the 52 1/2% of NRP funds earmarked for "housing and related purposes" for creating affordable housing in communities that have very few units.

**WHO:** City Council in conjunction with NRP

- ◆ Assure that neighborhood organizations with housing programs are aware of fair housing resources and laws.

**WHO:** NRP, Minneapolis Department of Civil Rights, Housing Discrimination Law Project, Minnesota Fair Housing Center

**FINDING #6: THE HOLLMAN CONSENT DECREE MAY SIGNIFICANTLY AFFECT THE DISTRIBUTION OF PROTECTED CLASS HOUSEHOLDS IN HENNEPIN COUNTY**

**Recommendation:**

**Ensure that Hollman families have fully informed housing choice and that implementation of the settlement include broad-based community support.**

- ◆ Encourage increased community and city involvement.
- ◆ Assure that replacement units are in place before demolition occurs.
- ◆ Respect the rights of individuals who for cultural reasons choose to live in clusters.
- ◆ Support and expand existing system of housing information and referral services into a coordinated metro wide network.



- ◆ Monitor all HUD accessibility requirements. For example, a **minimum** of five percent of federally funded new units must be accessible to people with mobility limitations. See 24 CFR § 8.22 (b). In addition, five percent of units that are altered with federal funds, to the maximum extent feasible, must be readily accessible to people with disabilities. See 24 CFR § 8.23 (b) (1). HUD may prescribe a higher percentage for altered units if census data demonstrates a higher percentage of people with disabilities in the community. See 24 CFR § 8.23 (b) (2). In Minneapolis, 9.1 percent of the population has mobility or self care limitations.
- ◆ Consider the feasibility of using a portion of HUD settlement monies as down payments on homes for Hollman families.

**WHO:** Attorneys and parties implementing the consent decree

**FINDING #7: NEW RESOURCES MAY INCREASE FAIR HOUSING ENFORCEMENT.**

**Recommendation:**

**Increase support for ongoing survey and complaint based testing in all phases of the rental and sale of housing in the metropolitan area.**

**WHO:** City Council

Thank you to the following who participated in one of focus groups conducted by the MN Fair Housing Center in January and February 1996:

Charles Williams, Minnesota Housing Finance Agency  
Denise Rogers, Minnesota Housing Finance Agency  
Kirk Hill, Minnesota Tenants Union  
Matt Bower, Minneapolis Planning Department  
John Ruffin, Metropolitan Interfaith Council on Affordable Housing  
john powell, Institute on Race and Poverty  
Joan Willshire, Minnesota State Council on Disability  
Eric Peterson, Minneapolis Advisory Committee on People with Disabilities  
Charlie Warner, Community Action of Suburban Hennepin  
Joe Stahl, author of *Analyzing Impediments to Fair Housing Choice in Hennepin County*  
Elsa Batica, Minneapolis Department of Civil Rights  
Tom Fulton, Family Housing Fund  
Dick Little, InterRace  
Bill Vanderwahl, Lutheran Social Services  
Diana Fiaella, Lutheran Social Services Housing Resource Center  
Bret Hartley, Project for Pride in Living  
Fred Smith, CURA, University of Minnesota  
Jamie Pedraza, HUD  
Jay Wilkinson, Legal Aid Housing Discrimination Law Project  
Bill Davis, Community Action of Minneapolis and Minneapolis NAACP  
Stephen Seidel, Habitat for Humanity  
Dee Fitch, HUD  
Ann Robertson, Legal Aid  
Doc Davis, Housing Resource Clearinghouse of Phillips

Where you live determines the chances you get in this world. It determines the school your children go to, the crime you're exposed to, the peer influences on your children. If you're isolated from the mainstream, it's not a fair world, it's not a fair contest.

—Prof. D. Massey, Univ. of Chicago, cited in *Study Finds Segregation in Cities Worse Than Scientists Imagined*, N.Y. Times, Aug. 5, 1989, p. 6.

## INTRODUCTION

Accessibility to housing choice is essential; housing provides not only shelter, but also “access to or denial from resources and social, political, and educational opportunity structures”.<sup>1</sup> This report identifies housing practices and policies in Minneapolis and examines the role unfair practices and policies might play in the segregation of groups of people. The analysis concludes that discriminatory housing practices are widespread, sometimes overt and sometimes subtle, and of such longstanding duration that only affirmative widespread remedies will begin to dismantle the barriers.

This analysis compiles census data, studies by academics, newspaper articles and other sources of information to provide an overview of who lives where and in what types of housing within the city. A limitation of the study is that the author conducted no new research in the field. Instead, the author focused on the examination of resources and research findings compiled by national and local experts in housing issues. While the focus of this report is the City of Minneapolis, in some instances the author has included information about the surrounding county or counties in order to give meaningful context to information about Minneapolis.

This report is supported by Minneapolis community development block grant funds. The City of Minneapolis, as a grantee of the US Department of Housing and Urban Development (HUD), is required to use a portion of its funds to “affirmatively further fair housing.” One of the ways the

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<sup>1</sup>powell, john a. How Government Tax and Housing Policy Have Racially Segregated America. Unpublished, p. 1.

city can meet its obligation is to produce this "Analysis of Impediments to Fair Housing Choice." The city retained the services of the Minnesota Fair Housing Center to coordinate the project. A graduate student from the Humphrey Institute was hired through the Center for Urban and Regional Affairs (CURA) at the University of Minnesota to write the analysis, which generally follows HUD guidelines.

This report is written for policy makers, community activists and others interested in working to understand and remove barriers to housing in Minneapolis.

## **I. AN OVERVIEW OF FAIR HOUSING LAWS**

This section provides a brief statement of fair housing laws together with HUD's definition of impediments to fair housing. (For federal state and municipal fair housing laws, see Appendix A.)

A number of federal statutes and court decisions comprise the federal fair housing laws. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968, prohibits discrimination in the sale or rental of residential property based on the race, color, religion, gender, or national origin of the applicant.<sup>2</sup> This covers conduct by both governmental entities and private individuals. The Fair Housing Amendments of 1988 extends equal housing opportunities to families with children and people with disabilities.<sup>3</sup> The Fair Housing Act and Amendments Act ("federal fair housing laws") prohibit discrimination in selling or renting housing, providing services in connection with the sale or lease of housing, and in the terms or conditions associated with the sale or rental. The federal fair housing laws also cover rental procedures used by landlords, mortgage lending practices by financial institutions, and sales of homes by real estate agents.<sup>4</sup>

At the state level, the Minnesota Human Rights Act adds fair housing protections. In addition to all the federal protections, it proscribes discrimination based on public assistance status, sexual

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<sup>2</sup>Fair Housing Act of 1968, 42 U.S.C. §§ 3601-3631 (1988 & Supp. V. 1993).

<sup>3</sup>42 U.S.C. § 3601 *et seq.* (1988 & Supp. V 1993).

<sup>4</sup>*Ibid.*

orientation, marital status, and creed.<sup>5</sup> This is buttressed by the Equal Protection Clause of the Minnesota Constitution.<sup>6</sup>

In Minneapolis, section 139.40 of the Minneapolis Civil Rights Ordinance includes all federal and state protections and further prohibits discrimination based on ancestry.<sup>7</sup>

Impediments to fair housing as defined by HUD are :

Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status or national origin which restrict housing choices or the availability of housing choices, or any actions, omission, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status or nation origin.<sup>8</sup>

Conduct taken *because* someone is of a certain race, gender or other protected group is *intentional*. Intentional discrimination is when a person says: "We do not rent to families with children." or "We prefer tenants who are not receiving public assistance." or "We don't rent to Indians." Such statements are impediments to equal housing opportunity and unlawful under fair housing laws.

The other type of impediment defined by HUD is conduct that is not intentional but has the *effect* of restricting housing choice. For example, mortgage lending practices that repeatedly result in the rejection of more loan applications from Hispanics than whites who are similarly situated have the *effect* of limiting housing options for those groups denied. Or exclusionary zoning laws may have the *effect* of barring groups of people protected by the fair housing laws from living in

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<sup>5</sup>MINN. STAT. § 363 (1992).

<sup>6</sup>MINN. CONST. I § 2.

<sup>7</sup>Minneapolis Code ch. 149.40.

<sup>8</sup> Stahl, Joseph, G.(1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory, p. E-1 citing U.S. Department of Housing and Urban Development, Fair Housing and Equal Opportunity.(1994, May 5). Fair Housing Planning: Requirements for Affirmatively Furthering Fair Housing in the Community Development Block Grant Program, Section III(D).

certain communities. These types of practices are also impediments, and may be unlawful under fair housing laws.

This analysis illustrates that while fair housing laws provide fairly broad legal protections, in fact, people continue to struggle with injustices and impermissible practices in finding decent, safe, affordable housing.

## **II. FAIR HOUSING ENFORCEMENT IN MINNEAPOLIS**

This section provides information on fair housing complaints and testing. One way to redress acts of discrimination under fair housing laws is for an aggrieved party or parties to file a civil claim against an alleged perpetrator -- a rental agent, building owner, realtor, seller or lender with public agencies or in state or federal court. Housing testing is another way of promoting enforcement. Each will be discussed below.

### **A. FAIR HOUSING COMPLAINTS**

Fair housing complaints in Minneapolis may be filed with several public agencies or directly, in most cases, in state or federal court. The Minnesota Department of Human Rights, HUD, and the Minneapolis Civil Rights Department are public agencies with authority to investigate and make findings of discrimination in fair housing cases arising in Minneapolis. Complainants may file with these agencies with or without an attorney. The Housing Discrimination Law Project, a program of the Legal Aid Society of Minneapolis, handles fair housing complaints as do a growing number of attorneys in private practice.

Based on anecdotal evidence, fair housing violations would appear to occur frequently. A study conducted in 1994 of 154 non-profit housing-related organizations in Minneapolis and the western suburbs found that 76 percent of the agencies reported that the people they serve experience housing discrimination "sometimes" or "often".<sup>9</sup> When people told service providers

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<sup>9</sup>Fair Housing Survey. (1994). Prepared by representatives from CURA, Hennepin County, Minneapolis Legal Aid Society, and Community Action for Suburban Hennepin County.



they felt they may have been discriminated against in finding housing, providers most often referred people to the Legal Aid Society.<sup>10</sup>

Despite the frequency of informal complaints of discrimination, the number of complaints filed with public agencies has been small; it has been estimated that less than one percent of discriminatory acts result in the filing of a formal complaint.<sup>11</sup>

The number of fair housing complaints filed with public enforcement agencies in the past five years is set out below.<sup>12</sup>

#### FAIR HOUSING COMPLAINTS FILED WITH PUBLIC ENFORCEMENT AGENCIES

Public Agencies	1990	1991	1992	1993	1994	1995
Mpls. Dept. of Civil Rights complaints arising in Minneapolis only	46	60	46	41	67 as of 11/28	54
MN Dept. of Human Rights complaints arising in Minneapolis only	not available	not available	not available	1	6	14
MN Dept. of Human Rights complaints arising statewide	68	89	79	59	67 as of 7/1	not available
HUD complaints arising in Hennepin County including Mpls.	73	98	63	45	70	29

These numbers represent cases where complaints were actually filed.

<sup>10</sup>Ibid. Seventy organizations replied to this question. The most popular organizations for referral were: Legal Aid (39), City or State Human/ Civil Rights Departments (13), Tenants Union (10), Home Line (7), HUD (5), and the Mental Health Law Project (4).

<sup>11</sup>Galster, George C. (1990). Federal Fair Housing Policy: The Great Misapprehension. In D. Pasquale & L.C. Keyes (Eds.), *Building Foundations: Housing and Federal Policy*. Pennsylvania: University of Pennsylvania Press.

<sup>12</sup>Partial information extracted from chart in Stahl, Joseph G. (1995). *Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Inventory*, p. 35. Other information obtained from Bill Prock at the Minneapolis Civil Rights Department and Eileen from Delores Fridge's office at the Minnesota Department of Human Rights.

Lack of funding to enforce fair housing by these agencies may be one reason for the low numbers. Staff responsibilities at HUD's Minneapolis Fair Housing and Equal Opportunity Division include monitoring all 147 of the state's public housing authorities, advising 400 property owners statewide on how to meet obligations under federal fair housing laws, and providing technical assistance to a dozen cities and counties that receive Community Block Grant funding.<sup>13</sup> Funding for the Division is sufficient to permit only minimal staffing: a director, an assistant, and a secretary. There are virtually no staff time and resources for fair housing outreach and education. Victims of discrimination may not know their rights or where to file. The inadequacy of resources makes the complaint investigation process longer than it should be and more difficult.<sup>14</sup> Complainants may get discouraged, move, or withdraw their complaints as a result. Efforts of public agencies are directed to reactive measures like responding to pending cases, rather than to fair housing education and training.

Another possible reason for the low number of fair housing complaints is that people may not be aware of acts of discrimination perpetuated against them. In an effort to discourage unwanted groups of people, a landlord may tell a potential renter that an apartment is unavailable when it is available, or a landlord may reject an applicant who is on public assistance purportedly because of a bad credit history when an applicant not on public assistance with a similar credit history is accepted. In cases such as these, potential renters may not even be aware that discrimination has occurred.

Yet another explanation for the low number of complaints is that people seeking housing may have neither the time nor the energy to pursue fair housing complaints. During intakes for admission to metro area transitional housing programs, homeless people, who often are protected under fair housing laws, commonly complain about the housing discrimination they have experienced. One transitional housing resident spoke of dealing with landlords who said they

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<sup>13</sup> Woods, Willard. (1994, January 9). Staffers say HUD Can't Meet Goal to Enforce U.S. Fair Housing Laws. Minneapolis Star Tribune, p. 6A.

<sup>14</sup> Washington, Wayne & Woods, Willard. (1994, January 9). Civil Rights Enforcement Falls Behind; Agencies Cite the Lack of Money and Staff. Minneapolis Star Tribune, p. 1A.

wouldn't accept her family because she had too many kids or that landlords said they "don't take families on welfare."<sup>15</sup> When asked why they didn't pursue legal action, parents who may have suffered discrimination explained that they had to worry first about finding a place for their families to live. For homeless people, the immediate pressure of finding housing is so intense that fighting discrimination when it occurs often does not seem to be a viable option. An individual complainant also has the option to seek legal advice from either legal aid or a private attorney rather than filing with a public agency. The Housing Discrimination Law Project (HDLP) of the Minneapolis Legal Aid Society provides representation for low income complainants statewide. The project received intakes for approximately 300 people from October 1994 through November 1995.<sup>16</sup> During that time, twelve housing discrimination cases were actually filed in court.

Another way of enforcing fair housing laws is to use a class action lawsuit. Rather than one complainant challenging a housing practice, class action suits permit large groups to file claims and seek remedies for all members of the class. One such class action case was brought in Minneapolis in 1992. The plaintiffs were the Minneapolis Branch of the NAACP and a group of similarly situated residents of public housing. They alleged racial discrimination in the placement of residents of public housing. According to the Minneapolis Legal Aid Society, representing some of the plaintiffs,

"For years, the government built its public housing almost all in one place, in the inner city. Because many African American families lived in public housing, white politicians and government officials refused to put public housing in any other location. By putting it all in one place, by crowding families with children together, by designing it poorly and then not taking proper care of it, the government created a neighborhood that was poor, isolated, and racially segregated. African-American tenants, and more recently Asian-American tenants, have not received fair housing."<sup>17</sup>

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<sup>15</sup> Anonymous Elim Transitional Housing resident, summer 1995.

<sup>16</sup> Quoted from Jay Wilkinson, HDLP Attorney, in a meeting February 6, 1996.

<sup>17</sup> Legal Aid Society of Minneapolis. (1995, September). Hollman Update, p. 1.

Settlement was reached in the case in April 1995. Elements of the settlement are discussed below in Section IV. F.

The methods of enforcement described above essentially require a complainant to come forward with a charge against a perpetrator. Any remedies under the law are necessarily limited to the scope of the allegations contained in the complaint. Some experts in the fair housing field criticize this framework for enforcement. They argue that current fair housing laws are inherently flawed in that they are "built upon a tort or criminal liability model that requires the identification of a violation, the detection of a perpetrator, and proof at trial that the perpetrator's act has violated the federal fair housing statutes."<sup>18</sup> They further claim that housing discrimination continues in large part because fair housing laws are structured on "the punishment of individual acts of misconduct".<sup>19</sup> Rather, these experts see housing discrimination caused not merely by acts of individuals so much as by practices and policies that are system-wide in nature.<sup>20</sup>

## **B. FAIR HOUSING TESTING**

Housing tests are a way of checking the housing market to see if and how people are being discriminated against when they try to rent or buy apartments and houses. Tests measure differences in the treatment of home seekers because of their race, color, sexual orientation, family or marital status, public assistance status, disability, gender, religion, creed, national origin, or ancestry. In a typical test, two trained individuals who are alike in all respects except for protected class status, such as race or sexual orientation, pose as renters or buyers. They record their experiences which are subsequently reviewed by a coordinator to determine if there are differences in treatment.

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<sup>18</sup> Boger, John Charles. (1993). Toward Ending Residential Segregation: A Fair Share Proposal for the Next Reconstruction. North Carolina Law Review. p. 1584.

<sup>19</sup> Ibid, p. 1585.

<sup>20</sup> powell, john a. How Government Tax and Housing Policy Have Racially Segregated America. Unpublished, p. 31. These ideas are also expressed in the above mentioned article written by John Charles Boger.

Two types of testing are used. One testing method is complaint based testing, useful in obtaining evidence to support claims of discrimination brought by individuals. The second testing method is survey testing. In survey tests there are no complainants. Rather, a series of tests is performed in a targeted area to determine the nature and extent of possible discriminatory practices.

Experts contend that testing is the best way to produce evidence of discrimination. One expert in the field, George Galster, believes, "Effective detection of housing discrimination *requires* that an *ongoing, comprehensive program of random testing* be conducted by one or more organizations throughout each metropolitan area. Given the subtle nature of most discriminatory acts, testing is the only foolproof means of uncovering it."<sup>21</sup>

While very little survey testing has been done in a systematic way in Minneapolis, there was one survey testing project conducted in the Phillips neighborhood in 1991. The study in Phillips was funded by the Minneapolis Department of Civil Rights and conducted by independent consultants. The Phillips study found that people of color were routinely discouraged from renting in the neighborhood. Eighty-two tests were completed with 26 percent of the tests showing substantial difference in treatment between testers. In some instances, landlords asked different or additional questions of testers of color. Black testers were more likely than white testers to be asked questions about things such as lifestyle and source of income. In one case, a person of color was told there was a monthly charge for laundry and parking while a white tester was not. The Minneapolis Civil Rights Department filed discrimination charges in twenty-four cases. In settling some of the cases, landlords agreed to rent the next available unit to a qualified person of color, to change application policies, and to display fair housing posters.<sup>22</sup>

Until recently there have been few resources available in Minneapolis for testing. The Minnesota Fair Housing Center is now funded to conduct tests -- both complaint based and survey tests.

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<sup>21</sup> Galster, George C. (1990). Federal Fair Housing Policy: The Great Misapprehension. In D. Pasquale & L.C. Keyes (Eds.), Building Foundations: Housing and Federal Policy. Pennsylvania: University of Pennsylvania Press, p. 145.

<sup>22</sup> Zhou, Yu, & Smith, Frederick. (1992). Housing Discrimination in the Phillips Neighborhood. CURA.

### **III. MINNEAPOLIS - BACKGROUND INFORMATION**

This section provides an overview of Minneapolis including demographics, data on income and poverty, employment, transportation, and housing. Whenever possible attempts have been made to compare the Minneapolis profile with profiles of the surrounding area.

#### **A. DEMOGRAPHIC PROFILE**

This profile includes demographics of: gender, race, age, family type, national origin, and disability restrictions. Whenever possible attempts have been made to compare Minneapolis demographics with demographics of the surrounding area. Information regarding housing status is also included whenever possible.

##### **1. POPULATION**

In 1990, the City of Minneapolis had a population of 368,383.<sup>23</sup> Between 1980 and 1990, the city population decreased by 3,027 people, a decline of less than one percent. This represents a trend toward stability after a thirty year decline in population. From 1950-1980 Minneapolis population decreased 150,767 people, 29 percent of the 1950 population.<sup>24</sup> While the Minneapolis trend from 1980 to 1990 may seem encouraging, in light of a wider perspective, it may be alarming when it is shown that from 1980 to 1990 the suburban Hennepin County population rose 14 percent from 570,460 residents to 664,048 residents.<sup>25</sup> (See Appendix B, Map 1.)

##### **2. GENDER**

In 1990 the city had 189,712 women, 51.5 percent of the population, and 178,671 men, 48.5 percent of the population.<sup>26</sup> This breakdown is similar to that of suburban Hennepin County,

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<sup>23</sup>City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 14.

<sup>24</sup>Ibid.

<sup>25</sup>1980 Census of Housing characteristics of Housing Units MN, pp. 12, 14. Also, 1990 Census of Population and Housing Summary Population and Housing Characteristics MN, p. 97.

<sup>26</sup>(1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census.



where the population is 51.7% female and 48.3% male.<sup>27</sup>

### 3. RACE

In the decade 1980 to 1990, the percentage of people of color in the city increased from 12.7 to 21.6 percent of the population.<sup>28</sup> The percentage of people of color in the population is disproportionately high compared to the population of people of color in suburban Hennepin County. While populations of people of color make up roughly 22 percent of the population of Minneapolis, only 5 percent of suburban Hennepin County populations are people of color.<sup>29</sup> (See Chart below. See also, Appendix B, Map 2; Appendix C, Tables 1 & 2; and Appendix D.)

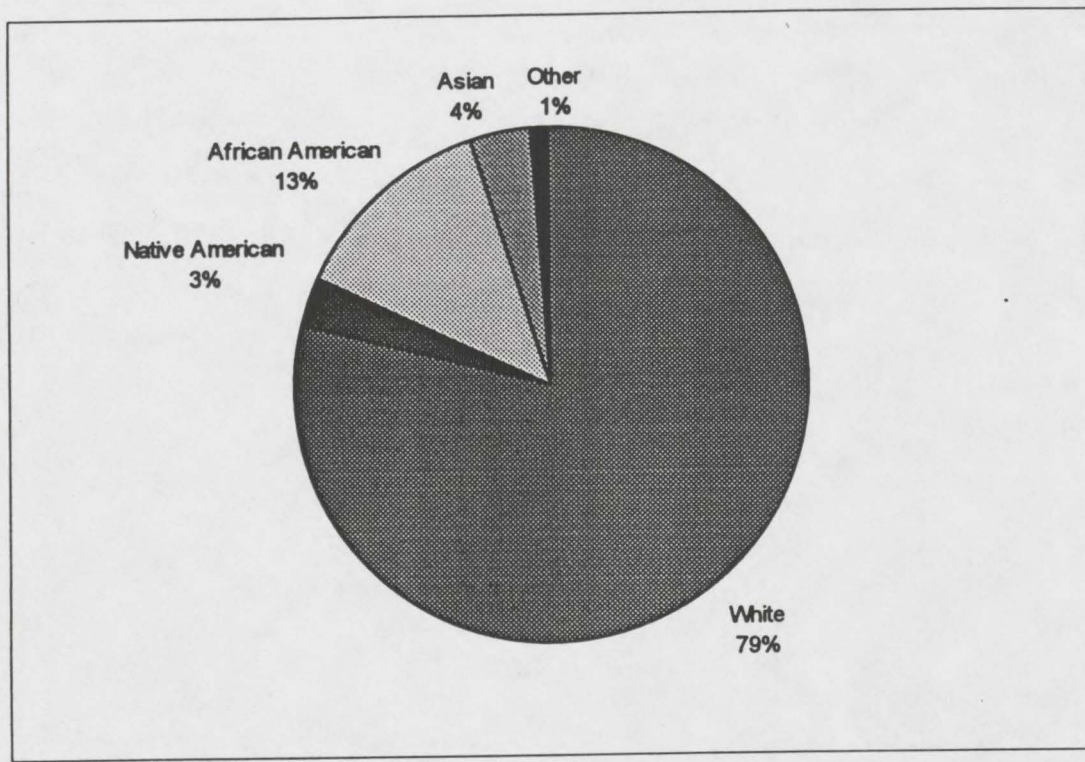
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<sup>27</sup> 1990 Census of Population and Housing Summary Population and Housing Characteristics MN, p. 97.

<sup>28</sup> City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 17.

<sup>29</sup> Population Distribution of Minorities 1990 Chart. Metropolitan Council.

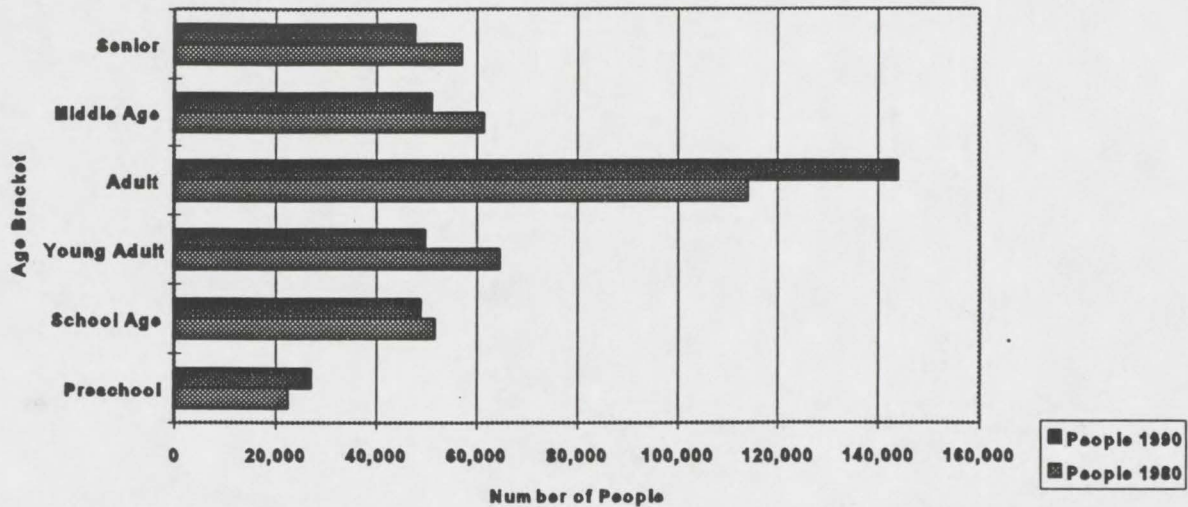
**RACIAL DISTRIBUTION 1990**  
**CITY OF MINNEAPOLIS**



**4. AGE**

Between 1980 and 1990 the percentage of preschool children (under 5 years) and adults (25-44) increased by 1.4 and 8.3 percent, respectively. All other population categories have decreased: school age (ages 5-17) by 0.6 percent, young adult (18-24) by 3.9 percent, middle age (45-64) by 2.8 percent and senior (over 65) by 2.4 percent. (See, Graph below. See also, Appendix C, Table 3.)

MINNEAPOLIS AGE POPULATION DISTRIBUTION 1980 & 1990



## 5. FAMILY TYPE

A household is defined as all persons who occupy a household unit such as a house, apartment, or mobile home. A household may be two unrelated individuals living together, one person living alone, a single family, or any other arrangement of unrelated persons occupying the same space.<sup>30</sup>

The Census divides households into two groups: family households and non-family households. A family household may be any one of three types: 1) a child/children under age 18 living with a married couple; 2) a child/children under age 18 living with a male single parent; or 3) a child/children under age 18 living with a female single parent. The adult heading the family may be a birth parent, adoptive parent, relative of the child/children or step-parent. Children living in foster care or institutional settings are not considered to be living in families and are not counted by the census.<sup>31</sup> A non-family household is any other arrangement of persons living together.

<sup>30</sup>(1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census, p. B13.

<sup>31</sup>Ibid, p. B15.

In 1990, 48.3 percent of the city's population were family households; 51.7 percent were non-family households. This is a three percent decline in the number of family households since 1980. In 1990 the number of families without fathers present increased 1.8 percent from 1980 and the number of families without a mother present increased 0.7 percent, while the number of married couple households declined by 5.5 percent.<sup>32</sup> (See, Appendix C, Table 4)

Suburban Hennepin County had a very different composition of households in 1990 from that of Minneapolis. A higher percentage of households, 69.5 percent, were family households compared to a smaller percent, 30.5, of non-family households.<sup>33</sup>

## 6. NATIONAL ORIGIN

Of those living in Minneapolis in 1990, 345,759 were born in the United States.<sup>34</sup> Foreign born Minneapolis residents totaled 22,624.<sup>35</sup>

## 7. DISABILITIES

A portion of the population in Minneapolis has disabilities. In the age category 16-64 years, 2.2 percent of the population has a mobility limitation and 3.0 percent of the population has a disability that causes a personal self-care limitation.<sup>36</sup> 16.6 percent of those 65 years and older has a mobility limitation; 12.6 percent has a self-care limitation.<sup>37</sup>

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<sup>32</sup>City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 18. The Twin Cities metro area is considered to be the seven county area including Anoka, Dakota, Ramsey, Scott, Hennepin, Washington, and Carver counties.

<sup>33</sup>1990 Census of Population and Housing Summary Population and Housing Characteristics MN.

<sup>34</sup>(1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census., page 14.

<sup>35</sup> Ibid, p. 61.

<sup>36</sup> A personal self-care limitation is a disability that impairs a person's ability to care for his/her own personal care needs.

<sup>37</sup> Ibid, p. 296.

## B. INCOME AND POVERTY PROFILE

Income is a critical factor in determining housing choice. Individuals with higher incomes have increased housing mobility. The greater the housing choice, the greater the access to employment, transportation, education, social advancement, and recreation.<sup>38</sup>

In 1990, the median household income of Minneapolis residents was below the median income of the Twin Cities metropolitan area (the seven county area hereafter referred to as the "metro area") and was also below that of the U.S. as a whole. (See, Chart below. See also, Appendix C, Table 5.)<sup>39</sup> Minneapolis median household incomes were \$11,354 below the median for metro area households and \$4,732 below the median for the United States. Similarly, the median family income for Minneapolis residents was \$10,783 below that of the metro area median and \$2,227 below the United States median. By the measure of median income alone, Minneapolis residents would appear to have significantly less housing mobility than their counterparts in the rest of the metro area.

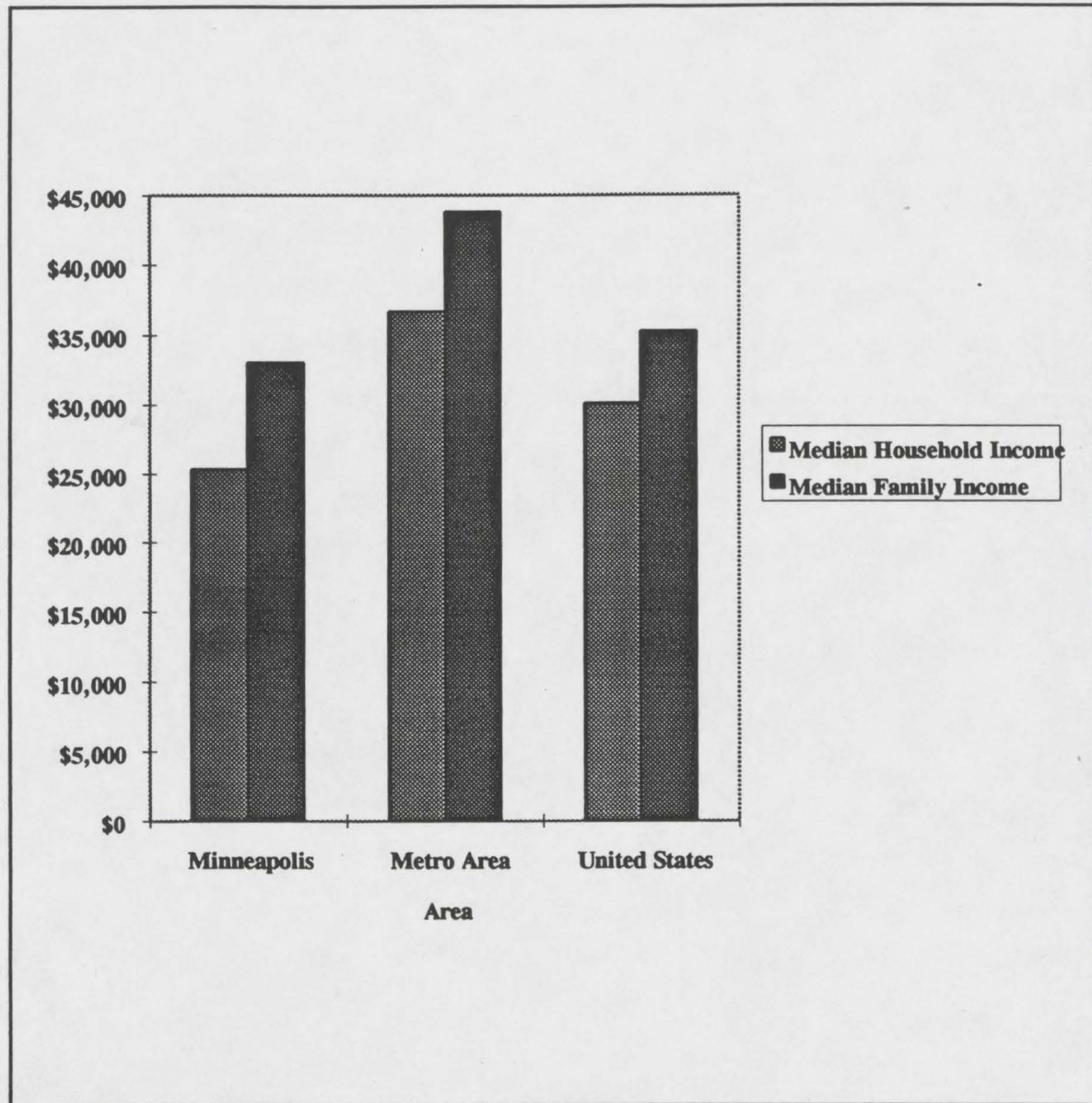
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<sup>38</sup>powell, john a. How Government Tax and Housing Policy Have Racially Segregated America. Unpublished, p 16.

<sup>39</sup> Ibid, p. 20.



**MEDIAN INCOME 1990**  
**CITY OF MINNEAPOLIS, METRO AREA & U.S.**



The median income for the city as a whole, however, gives only one view of the picture. Neighborhoods within Minneapolis have large disparities in income-- from the very wealthy to the very poor. The Kenwood neighborhood is on the high end with a median income of \$80,190, more than 12 times higher than the poorest neighborhood. Options for people in this neighborhood are many and varied based on income alone. On the low end is the Sumner-Glenwood neighborhood at \$6,452.<sup>40</sup> Residents in low income neighborhoods have much less mobility and therefore much less access to opportunities which may provide monetary or social advancement.<sup>41</sup>

While Minneapolis has some high income neighborhoods- three are higher than the metro area family median income, the city has high and increasing rates of poverty.<sup>42</sup> In fact, poverty rates in the city are more than twice the poverty rates in the rest of the metro area.<sup>43</sup> And the situation is worsening. Between 1980 and 1990 poverty in the city increased from 13.5 percent to 18.5 percent.<sup>44</sup> Conversely, in 1990 only 4.2 percent of suburban Hennepin County residents lived in poverty.<sup>45</sup>

City poverty rates among people of color are rising disproportionately to poverty rate increases among white people. From 1980 to 1990, poverty rates for African-Americans and Native Americans rose over 10 percent in each group, while poverty among Asians rose almost 6 percent and among Chicanos 0.6 percent. White poverty rates increased by 1 percent in the same period. In 1990, 31,829 African-Americans, 8,856 Native Americans, 20,474 Asians and 6,275 Chicanos

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<sup>40</sup> City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis. This example looks at Minneapolis neighborhoods with more than 100 people.

<sup>41</sup> powell, john a. How Government Tax and Housing Policy Have Racially Segregated America. Unpublished, p 1.

<sup>42</sup> (1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census.

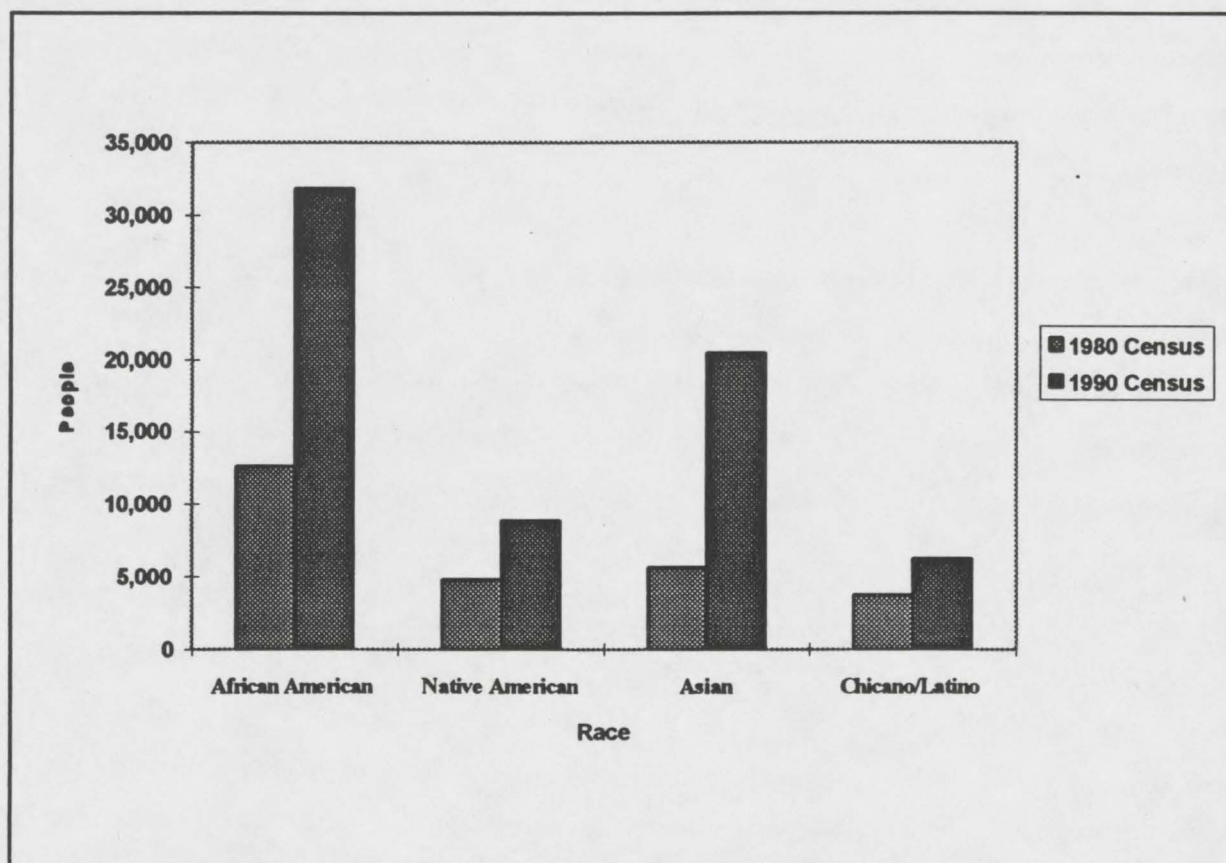
<sup>43</sup> The poverty threshold was defined by the census for a family of four to be \$12,674 in 1989. Families with incomes below that level were said to be below poverty level. Taken from (1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census, page B27.

<sup>44</sup> Ibid, p. 22.

<sup>45</sup> 1990 Census of Population and Housing Summary Population and Housing Characteristics MN.

lived below the poverty level.<sup>46</sup> (See Chart below.)

**NUMBER OF PEOPLE OF COLOR LIVING BELOW POVERTY LEVEL IN  
MINNEAPOLIS 1980 & 1990**



<sup>46</sup> Urban Coalition. (1993). Profiles of Change: Communities of Color in the Twin Cities Area, p. 14.



(For more information regarding income and poverty rates by neighborhood, see Appendix B, Maps 3,4, 5 &6 , and Appendix E )

### **C. EMPLOYMENT PROFILE**

Access to employment may be a factor in determining housing choice. One study of low income households in Minneapolis indicated that 78.8 percent (599 respondents) of working households had a household member working at a job located in the city. Of that group, 26.3 percent (200 respondents) held jobs in the neighborhoods where they lived. The proximity of housing to jobs may be more important for lower income households. For example, 35.5 percent of low income working households in Minneapolis rely on taking a bus or walking to go to work.<sup>47</sup>

In Minneapolis, the service sector is the largest area of employment, with 33.7 percent of available work opportunities.<sup>48</sup> This sector includes personal, business, legal, recreational and other service - oriented establishments. The second largest employment sector is government, with 17.1 percent of employment. Ranking third, the retail trade industry provides 13.5 percent of employment. (See Chart below.)<sup>49</sup>

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<sup>47</sup> Community Action of Minneapolis Survey (1994), Christy Snow, unpublished.

<sup>48</sup> According to third quarter 1993 data from the Minnesota Department of Economic Security.

<sup>49</sup> City Planning Department. (1995, January ). State of the City 1994: A Statistical Portrait of Minneapolis, p.60.

### 1993 MINNEAPOLIS EMPLOYMENT BY INDUSTRIAL CATEGORY

Industry	Employment	Percent Share Employment	Average Weekly Wage
Finance, Insurance, Real Estate	32,956	11.7%	\$813.77
Wholesale Trade	12,437	4.4%	\$712.89
Manufacturing-Durable	16,080	5.7%	\$681.83
Transportation, Utilities	13,296	4.7%	\$669.00
Construction	5,818	2.1%	\$653.93
Government	48,210	17.1%	\$644.15
Manufacturing-Non Durable	19,878	7.0%	\$593.47
Services	95,071	33.7%	\$522.85
Agriculture	401	0.1%	\$392.91
Retail Trade	38,263	13.5%	\$331.57
Total	207,641	73.5%	

Average weekly wages by industry show that the Finance/Insurance/Real Estate industry wages are the highest with wages of \$813.77 per week, approximately \$100 more a week than the second highest industry, wholesale trade. The third highest category, manufacturing-durable goods, have an average weekly wage of \$681.83.<sup>50</sup>

Current growth trends by industry appear consistent with trends of the past ten to fifteen years. The service industry, the fastest growing sector, increased by 32.7 percent from 1980-93. Next was the Finance/Insurance/Real Estate sector with a 16.2 percent increase, followed by government up 14.8 percent.

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<sup>50</sup>Ibid, p. 68.

On the other hand, some industries declined in size. The number of employees in the construction industry decreased by 31.6 percent from 1980-1993 followed closely by the manufacturing industry with an employment decrease of 29.2 percent.<sup>51</sup> In 1980, the manufacturing sector accounted for 18.2 percent of the city's share of the workforce employment, but by 1993, its share had declined to 12.8 percent.<sup>52</sup>

From 1980-1990, the overall number of jobs in Minneapolis increased by 3.6 percent, from 268,515 to 278,314. The projected trend for employment from 1990-2000 is an increase of 1.5 percent, from 278,314 to 282,504 jobs.<sup>53</sup> -- a pattern of modest growth in the economy.

In contrast to the modest job growth in Minneapolis, substantial new job development is occurring in Hennepin County suburbs. While the projection for Minneapolis job growth from 1990-2000 is 4,190 jobs, the projection for the suburbs is 82,823 jobs.<sup>54</sup>

#### **D. TRANSPORTATION PROFILE**

Transportation resources and their availability to the people who work and live in the city influence housing choice. Access to public transportation is important for many seeking housing, especially low income individuals for whom buses may be the only form of transportation to work. A 1993 Metropolitan Council Development Guide outlines the need for more access to public transportation outside of the city. Elderly and disabled individuals often feel trapped in the city when making housing choices because bus services outside of the city are limited.<sup>55</sup> Here again, as mentioned before with income and employment, it can be seen that housing is not merely shelter. It is intertwined with the ability to have choices and options in almost all other aspects of

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<sup>51</sup> Ibid, p. 68.

<sup>52</sup> Ibid, p. 67.

<sup>53</sup> Carlson, Regan. (1994, February). Keeping the Twin Cities Vital: Job Location Appendix Nine. Met Council, pp. 9-20.

<sup>54</sup> Stahl, Joseph, G. (1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory, CURA, p. 10 citing Metropolitan Council. Forecasts of Population, Households and Employment: 2000 to 2020. Publication No. 620-93-066. July 20, 1993.

<sup>55</sup> (1993, May). Housing Chapter: Metropolitan Development Guide. Metropolitan Council, p. 8.

life.<sup>56</sup>

Twenty three percent of Minneapolis heads of household do not own a car. There is a large disparity between the number of heads of household who are white who do not own a car and the number of heads of household who are people of color who do not own a car. While only 19 percent of heads of household who are white do not own a car, 43 percent of heads of households who are people of color do not own a car. More specifically, 45 percent of African American, 51 percent of Native American, 30 percent of Asian, and 30 percent of all other people of color who are heads of households do not own a car.<sup>57</sup> The disparity among racial groups showing that people of color have fewer vehicles than whites impacts what housing and job opportunities are available to people of color.

70.8 percent of individuals living in Minneapolis drive their own car, truck or van to work; 10.5 percent use carpools; and 16 percent use public transportation.<sup>58</sup> (See chart below.) In Hennepin County, including Minneapolis, 84 percent of the population use a car, truck, or van for transportation; 9.8 percent use carpools; and 7.7 percent use public transportation.<sup>59</sup> These figures illustrate that a smaller percentage of city residents than suburban Hennepin residents use personal vehicles as a mode of transportation to work. With poverty more concentrated in Minneapolis than in outlying suburbs, public transportation in Minneapolis is critical for a workforce comprised of many people who cannot afford cars and insurance.

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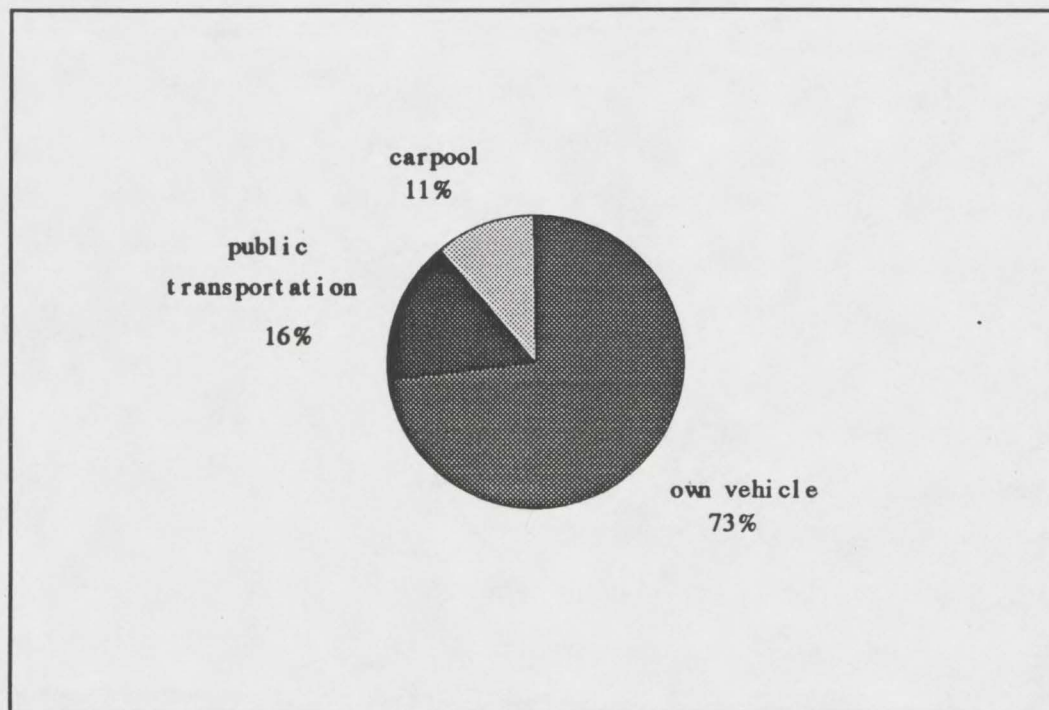
<sup>56</sup>powell, john a. How Government and Housing Policy Have Racially Segregated America. Unpublished. P. 1.

<sup>57</sup>1990 Census of Population and Housing Bureau of the Census, Disk 3A.

<sup>58</sup>(1992, June). Summary Social, Economic, and Housing Characteristics. 1990 Census of Population and Housing Bureau of the Census, p. 225.

<sup>59</sup>Ibid, p. 197.

### TRANSPORTATION USED BY MINNEAPOLIS RESIDENTS TO TRAVEL TO WORK



The Minneapolis bus system is operated by the Metropolitan Council Transit Operations (MCTO). The volume of daily riders has declined by almost 15,000 (a 7.6 percent decrease) since 1985. In 1985, 191,977 riders per day used the system; in 1994, 177,391 used the system.<sup>60</sup> Despite the decrease in usage, bus system routes are still extensive within the city. Few areas of the city are more than a quarter mile from the nearest bus route. For city residents who commute to jobs within the city, the bus system appears to be working comparatively well. MCTO coverage outside of the city, however, is less extensive.<sup>61</sup> (See Appendix B, Map 7).<sup>62</sup> Routes carrying suburban commuters to jobs in the city are adequate, but routes carrying city commuters to jobs in the suburbs operate much less frequently and therefore cause problems for

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<sup>60</sup>City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 112.

<sup>61</sup>Kaszuba, Mike & Brandt, Steve. (1994, February 28). Suburban Zoning Shuts Out the Poor. Minneapolis Star Tribune, p. 7A.

<sup>62</sup>Map created by Minneapolis Planning Department and printed in State of City 1994. Reprinted here with permission from the Minneapolis Planning Department.

inner city residents seeking and commuting to employment in suburbs.

## **E. HOUSING PROFILE**

The number of housing units by type, the condition of units, unit costs, vacancy rates, and the location of publicly assisted housing all affect housing choice for protected groups. An examination of the city's housing stock aids in the identification of barriers to fair housing by identifying patterns of housing deficiencies that consistently affect protected groups.

### **1. HOUSING TYPE**

In 1994 the city had approximately 177,634 units of housing. Of this number, 43% (76,885) were single family detached homes; 5.5% (9,788) were single attached units such as townhouses, condominiums, and cooperatives; 14.5% (25,700) were duplexes; and 37% (65,262) were apartment units.<sup>63</sup> The actual number of total housing stock availability has remained relatively constant since 1988. In no year since then has the total stock in the city varied by more than 1,100 units.<sup>64</sup> For a more in-depth look at the community breakdown of the types of housing stock, see the Chart of Minneapolis Housing Inventory by Community, October 1994 below.<sup>65</sup>

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<sup>63</sup>Ibid, p. 32. Apartments are considered to be units structures with three or more units. Duplexes re units in two unit structures.

<sup>64</sup> Ibid, p. 32.

<sup>65</sup>Information taken from City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 32.

# MINNEAPOLIS HOUSING INVENTORY BY COMMUNITY, OCTOBER 1994

Communities	Single Family	Single Unit*	Two Unit	Three/ Four Unit	Five or More Units	Total
Calhoun-Isles	4,132	1,839	1,764	1,484	8,817	18,036
Percent	22.9%	10.2%	9.8%	8.2%	48.9%	100.0%
Camden	9,782	140	1,338	132	941	12,333
Percent	79.3%	1.1%	10.8%	1.1%	7.7%	100.0%
Central	122	3,798	122	186	13,302	17,530
Percent	0.7%	21.7%	0.7%	1.1%	75.8%	100.0%
Longfellow	7,785	325	1,906	349	3,107	13,472
Percent	57.8%	2.4%	14.1%	2.6%	23.1%	100.0%
Near North	5,881	232	3,638	745	3,370	13,866
Percent	42.4%	1.7%	26.2%	5.4%	24.3%	100.0%
Nokomis	13,881	412	1,412	137	801	16,643
Percent	83.4%	2.5%	8.5%	0.8%	4.8%	100.0%
Northeast	8,435	119	5,120	712	2,724	17,110
Percent	49.3%	0.7%	29.9%	4.2%	15.9%	100.0%
Phillips	1,169	387	1,832	681	4,548	8,617
Percent	13.6%	4.5%	21.3%	7.9%	52.7%	100.0%
Powderhorn	8,117	1,186	4,724	2,205	8,872	25,104
Percent	32.3%	4.7%	18.8%	8.8%	35.4%	100.0%
Southwest	15,205	369	2,430	472	3,735	22,211
Percent	68.5%	1.7%	10.9%	2.1%	16.8%	100.0%
University	2,376	981	1,414	567	7,374	12,712
Percent	18.7%	7.7%	11.1%	4.5%	58.0%	100.0%
Minneapolis	76,885	9,788	25,700	7,670	57,591	177,634
Percent	43.3%	5.5%	14.5%	4.3%	32.4%	
* single units include townhomes, condominiums and cooperatives						

## 2. HOUSING CONDITIONS

The Minneapolis Assessor's Office regularly assesses all residential structures in the city using a nine point rating scale for classifying housing conditions. The rating categories are: excellent, very good, good, average plus, average, average minus, fair, poor, and bad. Housing with below average ratings may have considerable deferred maintenance, with any with the beginning of permanent damage to structural items to housing with considerable damage to major structural items. The houses are still habitable, but probably beyond the present occupant's capacity to restore or even maintain. The worst rating represents houses that have been labeled uninhabitable and have been condemned.<sup>66</sup>

In 1994, 17,717 units, or 10.3 percent of all housing units in the city, received a rating of below average. This is a slight increase over 1993 when 10.1 percent of all units received a below average rating or worse. The greatest number of below average units was in the single family detached housing group where 7,266 of the 76,885 houses received a below average rating or worse. The greatest percentage of below average housing as a portion of its housing stock type was in the duplex category where 23.2 percent, 5,934 of 25,700 units, as rated as below average or worse. (See chart below.)

### MINNEAPOLIS HOUSING STOCK CONDITIONS 1994

TYPE	Condition Rating in 1994				
	Total Units By Type	Average or Above Average	Below Average	Unknown	Percent Below Average
Single Family detached Housing	76,885	69,131	7,166	588	9.40%
Single Attached Units (Condos., etc.)	9,788	6,315	35	3,438	0.60%
Duplex Structures	25,700	19,670	5,934	96	23.30%
Apartment Units	65,261	58,777	4,582	1,902	7.00%
<b>Total Units</b>	<b>177,634</b>	<b>153,893</b>	<b>17,717</b>	<b>6,024</b>	<b>10.30%</b>

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<sup>66</sup> Ibid, p. 44.



### 3. HOUSING COSTS AND AFFORDABILITY

Housing costs have meaning only when framed in the context of income and affordability. The federal guidelines for affordable housing is housing that costs 30 percent or less of a household's income. By these standards, there is an egregious lack of affordable rental housing in the city. Of Minneapolis households that make \$19,999 or less a year, 72 percent live in apartments that are unaffordable by federal housing guidelines.<sup>67</sup>

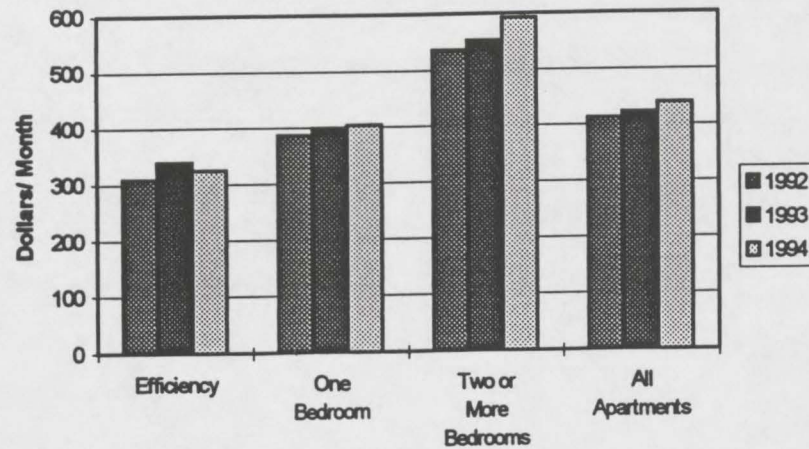
And, rental housing costs continue to rise. The average apartment rent for an efficiency in 1994 was \$325 a month, a one bedroom was \$404, a two or more bedroom was \$592, and the average rent for all apartments was \$440. The 1994 costs represent a 4.3 percent rental increase in average rents for all apartment units over 1993 costs. The largest increase in a single category was in the two or more bedroom group with an average increase of 7.2 percent over 1993 costs.<sup>68</sup> (See graph below.)

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<sup>67</sup>1990 Census of Population and Housing Summary Disk 3A. Census data groups those making less than \$10,000 and those making \$10,000 to \$19,999 separately. Separately, of those households that make less than \$10,000 yearly, 79% live in unaffordable housing. Of those that make between \$10,000 and \$19,999, 63% live in unaffordable housing. Calculations of the number of households in each grouping provided the figure in the text.

<sup>68</sup>Ibid, p. 50.

#### MINNEAPOLIS APARTMENT RENTS 1992-94



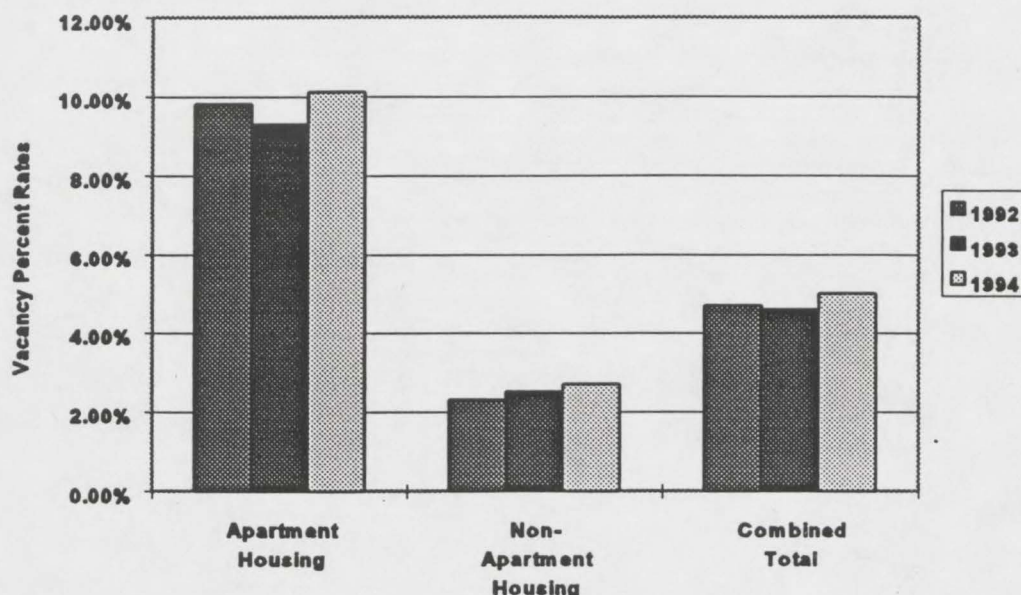
#### 4. HOUSING VACANCY RATES

Vacancy rates in housing in 1994 indicate a trend of increasing vacancy rates in all housing city wide. The largest increase was recorded in apartments with a 10.1 percent vacancy rate, a 0.8 percent increase over 1993 vacancy rates. Vacancy rates for apartments were disproportionately high compared to all other housing with rates almost four times as high as those for other housing types.<sup>69</sup> (See graph below.)

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<sup>69</sup> Ibid, p. 48.

## MINNEAPOLIS HOUSING VACANCY RATES 1992-94



Apartment vacancy rates also varied by communities within the city. In general, those communities with the oldest housing stock experienced the highest vacancy rates. The three communities with the highest vacancy rates in 1994 were Phillips (18.0 percent vacancies), Near North (13.4 percent vacancies) and Powderhorn (12.1 percent vacancies).

### 5. SITES FOR PUBLICLY ASSISTED HOUSING

There are two categories of buildings: family/general occupancy and elderly/special needs. Two communities, the Near North and University communities, have 54 percent of the city's publicly owned and subsidized family/general occupancy buildings. Four communities, the Central, Northeast, Near North and Phillips communities, have 70 percent of the city's publicly owned and subsidized elderly/special needs buildings. Three communities, Calhoun-Isles, Southwest, and Nokomis have very little family/general occupancy or elderly/special needs housing. A combined total for all three communities makes up less than one percent of all publicly assisted housing for both categories in Minneapolis. (For more precise figures on publicly assisted housing, see

Appendix B, Maps 8 & 9 and Appendix F<sup>70</sup>.)

#### **IV. IDENTIFICATION OF IMPEDIMENTS TO FAIR HOUSING CHOICE**

This section provides a discussion of a broad range of policies and practices that may be fair housing impediments for certain protected groups. As mentioned earlier, impediments are not only intentional acts by individuals but may also be practices that have the effect of restricting housing options. Topics in this section include: barriers in the sale or rental of housing; impediments in housing brokerage services; discrimination in the lending, appraisal, underwriting, and insurance industries; exclusionary public policies in the metro area; barriers in community development policies; and discrimination in the location of public housing.

##### **A. THE SALE OR RENTAL OF HOUSING**

Impediments to fair housing can take many forms as people move through the process of buying, selling, or renting. Sometimes discrimination can occur when home seekers attempt to purchase homes and encounter illegal blockbusting or steering by real estate agents. At other times barriers are created by owners of rental housing. This section of the analysis looks at specific types of impediments that arise in the sale or rental of housing.

##### **1. REAL ESTATE PRACTICES SUCH AS STEERING AND BLOCKBUSTING**

Steering is the illegal real estate practice of showing potential renters or buyers different properties in different communities based on a person's race, gender, religion or other protected class status. For example, it is unlawful for a real estate agent to direct clients to certain areas of the city based on their race. Blockbusting is the illegal practice by realtors of telling home owners to sell their properties because people of other races are moving into the neighborhood causing property values to plummet. It is a practice used to produce race turnover in a neighborhood.

No studies have been done to the author's knowledge which examine the extent of blockbusting

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<sup>70</sup> Information extracted from City Planning Department. (1995, January). State of the City 1994: A Statistical Portrait of Minneapolis, p. 52.

or steering in Minneapolis. One anecdotal piece of information regarding the continued use of the outlawed practices occurred in 1990. The Camden Area Community Concerns Council, representing the Camden neighborhood in north Minneapolis, alleged that real estate agents engaged in the practice of steering home buyers away from their neighborhood while others engaged in blockbusting by bombarding homeowners in the area with unsolicited offers to sell at cut-rate prices. Testimonies from people posing as potential home buyers said realtors said such things as, "Don't look in north Minneapolis; it's a ghetto." The Camden group brought their concerns to the Minneapolis Area Association of Realtors and asked for help in ending the discrimination. The Minneapolis Area Association of Realtors agreed to meet with the group to discuss their concerns.<sup>71</sup>

## **2. BARRIERS TO RENTAL HOUSING**

Concern is rising in the city among housing advocates over the impediments low income and other protected class persons face in searching for affordable rental housing. One source of impediments is application fees. Property owners often select tenants based on criteria that may be legal, but in gathering information about a prospective tenant may use a procedure that has impermissibly discriminatory effects. For example, landlords increasingly charge application fees, usually around \$20 - \$30, purportedly to run background checks on potential renters as part of their tenant screening process. There are no laws that require landlords who charge these application fees in fact to use them to process rental applications. Decisions about how much to charge for application fees and how to spend the fees are entirely up to the landlord.<sup>72</sup>

Advocates for low income people say application fees for prospective tenants reduce the number of apartments low income families can "afford" to look at. Service providers working with families who are homeless see the fees as one more link in a long chain of demands that families cannot meet. Families grow frustrated, feeling as though they pour money into apartment

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<sup>71</sup> Hodges, Jill. (1990, June 27). Camden Residents: Real Estate Agents Unfair. Minneapolis Star Tribune, p. A.

<sup>72</sup> Buchta, Jim. (1994, November 4). Application Fees Raise Concerns As More Landlords Require Them; Debate About their Use Grows. Minneapolis Star Tribune, p. 4H.



application fees without results. Protected class applicants like those on public assistance who apply and pay fees only to be denied, often wonder if discrimination does not play a part in the process but have no proof if a landlord can legitimately justify a denial based on credit or rental history problems.

Landlords, however, declare they are protecting their self-interest in running checks to ensure application information is accurate. Property owners also report using application fees and credit checks as an objective way to accept or deny potential renters in a manner that will protect the management companies from legal liability.

Another potential barrier for families and others on public assistance is the practice by landlords of setting income admission standards. Commonly landlords will require families to have a minimum monthly income of two and a half times the rent. This type of requirement essentially eliminates low income working families and those receiving public assistance from the pool of eligible renters. An entire group of low income people is having its options for housing restricted merely because their incomes are not high enough to meet a landlord determined level.

To see how income guideline restricts choice for low income families, imagine a parent with one child looking for housing in Minneapolis. In 1994 the average efficiency apartment rent was \$325 a month and an average one bedroom rent was \$404 a month. To rent the efficiency with income requirements of two and a half times the rent, the family would need \$812.50. To rent the one bedroom, the family would need an income of \$1,010 a month. An AFDC recipient with one child receives \$437 a month. No apartment with income guidelines would accept this family. Average apartment costs are higher in surrounding suburbs so looking in another city is not a viable option.

Yet another barrier imposed by private property owners is the minimum occupancy requirement.<sup>73</sup> Property managers claim that the limits are set to ensure the family has enough space and the unit

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<sup>73</sup>Thompson, Tim. (1994, October 6). Memo: Barriers to Rental Housing. Legal Aid Society.

is not destroyed by over use. Some requirements are: no more than two people per bedroom; household members may only sleep in bedrooms. These criteria would effectively prevent a parent with two children or two parents and their child from moving into a one bedroom unit. Another requirement prevents children of different genders from sharing a room if one of them is of school age. Some requirements are reasonable, but others seem unrelated to the need to maintain buildings. The result for larger families is another impediment to housing.<sup>74</sup>

Property owners set these requirements at their own discretion without limitations or oversight by the city. Not all property owners use such practices. As a general matter, occupancy policies may be lawful under fair housing laws, as long as they are reasonable.<sup>75</sup> In determining reasonableness, HUD suggests consideration of factors such as: 1) size of sleeping areas or bedrooms and overall size of the unit 2) age of children 3) configuration of unit 4) any discriminatory comments. (For further discussion on reasonableness of occupancy standards, see Appendix G.)<sup>76</sup>

## **B. PROVISION OF HOUSING BROKERAGE SERVICES**

Housing brokerage services can also be a source of impediments to fair housing choice for protected status people. People of color have historically been underrepresented in the real estate field in Minneapolis. And even when people of color enter into the real estate profession, they experience discrimination from potential clients, lending institutions and sometimes their own real estate agency. This section of the analysis focuses on people of color in the real estate profession.

### **1. UNDERREPRESENTATION OF PEOPLE OF COLOR**

People of color have been historically underrepresented in real estate occupations. For many years, people of color were excluded from local and national professional associations. Not until

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<sup>74</sup>Wilkinson, Jay. (1995, November 22). Memo: Minneapolis Impediments Study. Legal Aid Society.

<sup>75</sup>Keating, Frank. (1991). HUD Memo: Fair Housing Enforcement Policy: Occupancy Cases.

<sup>76</sup>Ibid.

1957 did the first person of color gain membership to the Minneapolis Board of REALTORS.<sup>77</sup> Today, while people of color have access to associations, the inclusion of people of color in the field is not in proportion to their numbers in the area. A 1994 news article quoted Jean Leake, Chair of the Minority Realtors Group: "if you've visited our association or been to one of the board of directors meetings...you would see that that's visibly probably been all white male. Maybe in the past few years white females have been included. That doesn't represent the state of Minnesota."<sup>78</sup>

In 1980, 2.03 percent of the 3,198 people employed in real estate management positions were people of color. In comparison, 4 percent of the state population was people of color in 1980.<sup>79</sup> Pay inequities were also a problem for certain racial groups. The median weekly earnings for full time people of color in real estate management positions in 1981 was substantially below that of whites. Whites averaged \$63 more weekly than people of color regardless of gender differences.<sup>80</sup>

Barriers for entry into the market for realtors of color continue to be high. Start up costs are considerable and income is low for realtors building their practices. A new loan program started in 1994 with the purpose of increasing the number of people of color in the realtor market. This project, called The Minnesota Association of Realtors Real Estate Minority Assistance Program, provides loans for people of color who are interested in entering the real estate field but who may not be financially able to do so because of the large start up costs associated with entry into the industry. The program offers \$1,200 to \$1,500 loans to defray the cost of start up and pre-license education as well as other smaller loans to help with costs like association dues and licensing fees. The program has plans to assist 25 persons of color throughout the state enter the real

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<sup>77</sup>Cunningham, Gary. (1985, November). People of Color and Women in Real Estate: A Special focus on Hennepin, Ramsey, and Dakota counties. Metropolitan Community Housing Resource Boards, p. 2.

<sup>78</sup>Woods, Willard. (1994, January 18). A Career in Real Estate: Loan Program Gives Hand to Minorities Who are Attempting to Become Realtors. Minneapolis Star Tribune, p. 1D.

<sup>79</sup>Ibid, p. 11.

<sup>80</sup>Ibid, p. 37. Whites earned an average of \$410/week whereas people of color earned \$347/week.



estate profession yearly.<sup>81</sup>

## 2. DISCRIMINATION AS PERCEIVED BY REALTORS OF COLOR

Realtors of color also have experienced discrimination in the field and have particular concern that these discriminatory practices still exist even with fair housing laws.<sup>82</sup> Some realtors experienced discrimination in the distribution of corporate referrals within real estate firms. A corporate referral is a way for an agent to receive a fairly easy sale at a substantial commission because clients are usually companies transferring employees to a target area in search of new homes. The referrals are dispersed through the real estate firm to agents. Theoretically, referrals should be rotated among all employees. Yet many real estate agents of color report that they had never received a corporate referral from their managers in their entire stay with an agency.<sup>83</sup>

Other race issues may arise when realtors of color work in the area of home sales. Realtors of color have reported making calls to set up appointments with potential clients only to go to the home and have no one answer the door. Upon returning to the office and calling, the realtor would find the people home. In other instances, realtors of color may show buyers of color homes in white neighborhoods and have the police called out by neighbors. This blatant harassment can be coupled with problems of mortgage lenders who may not treat the agent as a legitimate professional with a serious buyer.<sup>84</sup>

When real estate agencies have few or no people of color employed in their agencies, this limits choice in several ways:<sup>85</sup>

- 1) The comfort level of a buyer of color may be diminished when dealing with an all white real estate firm.

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<sup>81</sup> Ibid, p. 1D.

<sup>82</sup> Cunningham, Gary. (1985, November). People of Color and Women in Real Estate: A Special focus on Hennepin, Ramsey, and Dakota counties. Metropolitan Community Housing Resource Boards, p. 2.

<sup>83</sup> Ibid, p. 50.

<sup>84</sup> Ibid.

<sup>85</sup> A conversation with John A. Powell, executive director, Institute on Race and Poverty, University of Minnesota, on January 15, 1996.

- 2) If real estate firms reflect the community they serve, an all white firm might suggest to a buyer of color that the community is all white. This may also suggest to the buyer that the community may not welcome people of color.
- 3) If a real estate company is not willing to hire realtors of color, a buyer of color may reasonably wonder whether the firm is willing to represent assertively a client of color.

### **C. PROVISION OF FINANCING ASSISTANCE FOR DWELLINGS**

Regulations governing the availability of assistance in financing the purchase of a home essentially determine who has the opportunity to become a home owner. Historically, groups protected by fair housing laws have either been rejected by traditional lending institutions or do not have access to these institutions. Furthermore, those living in disadvantaged neighborhoods have also been historically discriminated against because banks and other lending institutions have chosen not to assist persons for the reason that their neighborhoods are not economically well off.<sup>86</sup> This section of the analysis looks at discriminatory practices as they continue to occur in the bank lending, appraisal, underwriting and insurance fields.

#### **1. DISCRIMINATORY LENDING PATTERNS, PRACTICES AND DISCLOSURE**

National research commissioned by the Mortgage Bankers Association of America and conducted by the Gallop Poll found that 64 percent of recent home buyers believe discrimination occurs in the mortgage lending process.<sup>87</sup> Nine percent of all home owners believe they, themselves, were victims of discrimination: 16 percent of Blacks, 7 percent of Hispanics, and 3 percent of whites. People believing there was discrimination come from all protected class groups: race, color, religion, gender, national origin, family status, disability, public assistance status, marital status, age, and sexual orientation.

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<sup>86</sup>Goetz, Edward. "Class Lecture." Housing Policy. University of Minnesota. November 19, 1994.

<sup>87</sup>The study showed 83 percent of African Americans and 60 percent of Hispanic and White homeowners believe there is discrimination. Associated Press, (1994, March 11). Home Buyers Believe Discrimination Exists in Mortgage Lending Industry. The Minneapolis Star Tribune, p. 8D.

The Association of Community Organization for Reform Now (ACORN) completed a study on racial disparities in mortgage lending in 23 United States cities in 1990-92.<sup>88</sup> Minneapolis and St. Paul were studied as a unified urban area. Results from the Minneapolis-St. Paul study show racial disparities in mortgage lending continue to occur. In 1992 the seven lenders examined rejected African American applicants 26 percent of the time, Hispanic applicants 9 percent of the time and whites 4 percent of the time. African Americans and Hispanics were almost six times as likely to be rejected than white applicants in 1992, compared to 3.47 times more likely in 1991, and 5.27 times more likely in 1990.<sup>89</sup>

Another study completed by Sam Myers, Jr. et al. in 1993 on disparities in mortgage lending in the Upper Midwest yielded similar results showing discrimination.<sup>90</sup> One part of the study focusing particularly on the Twin Cities metro area found that almost 70 percent of the disparity between loan rejection rates of white and people of color was due to "unequal treatment of similarly qualifies loan applicants", or discrimination.

Discriminatory bank lending patterns are still a serious problem for protected class people living in certain Minneapolis neighborhoods. For example, research on data from the 1991 Home Mortgage Disclosure Act (HMDA) showed that the Phillips neighborhood saw a decrease in loan approvals over the year before and that people of color were disproportionately denied loans.<sup>91</sup> In 1990, \$6.4 million in 133 loans were made to applicants residing in Phillips while in 1991 only \$4.8 million in 111 loans were approved.<sup>92</sup> Of the loans made, people of color were disproportionately denied, receiving only 14 percent of the loans (15 loans) while whites obtained

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<sup>88</sup> Association of Community Organization for Reform Now. (1993). Treading Water: Racial Disparities in Home Mortgage Lending in 23 Cities: 1990 - 1992. Washington DC.

<sup>89</sup> The seven lenders identified by ACORN for the study were: Norwest, First Bank, Firststar, TCF Mortgage, FBS Mortgage, Inv. Sav FSB, and Met Fin Mort.

<sup>90</sup> Myers Jr, Sam, et al. (1993). Disparities in Mortgage Lending in the Upper Midwest: Summary of Results Using 1992 Home Mortgage Disclosure Act Data, University of Minnesota, p. ES-3.

<sup>91</sup> HMDA was enacted in 1975. HMDA requires depository institutions and mortgage banks with a significant number of home loans to report the race, gender, and income of applicants for all types of loans as well as the disposition of all those loans on an annual basis.

<sup>92</sup> Meter, Ken. (1993, July). Banking Community Lending Drops Despite New Programs. The Alley, pp. 1,3. In 1990 55 loans were denied totaling \$2.1 million. In 1992 42 loans were denied totaling \$1.1 million.

86 percent of the loans (96 loans). According to the 1990 census, 56 percent of the Phillips population is people of color, compared to 42 percent whites.<sup>93</sup> If loans were approved without regard to race, the approval rates for people of color should more accurately reflect their numbers in the community.

Another Minneapolis neighborhood community group, the Camden Area Community Concerns Council (CACC), is trying to increase community investment by one area bank.<sup>94</sup> Camden residents are protesting the minimal number of loans made in low income neighborhoods by Investment Bank Corporation. The bank states it is being unfairly targeted because its lending record is being compared to that of larger lending institutions; nonetheless residents continue to urge the bank to improve lending efforts to people of color and low income households.

It is often difficult to gauge the overall impact discriminatory lending patterns have on communities. Protected class applicants for loans who are rejected, may become discouraged and cease efforts to obtain financing. Although the denied loan will be represented in statistics only for the year in which the reject occurred, the impact on a community may linger for years after.

## **2. DISCRIMINATORY APPRAISAL AND UNDERWRITING PRACTICES**

Sometimes it is the appraiser, not the lender, who may act in a discriminatory manner. The amount of money a borrower can get to purchase a home depends upon its appraised value. If the home is appraised at a value less than its sale price, the buyer may not be able to obtain a loan large enough to cover the purchase.

Stereotypic images of a neighborhood can sometimes influence the way in which an appraiser sets

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<sup>93</sup>Zhou, Yu, & Smith, Frederick. (1992). Housing Discrimination in the Phillips Neighborhood.

<sup>94</sup>DePass, Dee. (1994, August 20). Camden Organization Protests Investors Bank Lack of Investment in Inner-city Neighborhoods; CEO: Bank Making Progress in its Lending Community. Minneapolis Star Tribune, p. 1D.

a value on a home if he or she is unfamiliar with the area.<sup>95</sup> One realtor, Faye Bland, reports that appraisals of city homes by suburban appraisers often undervalue the property. She cites an example of a home she dealt with near Lake Harriet. "I valued the property at \$83,000. The bank appraiser set it at \$72,000. When the loan fell through (for remodeling).... the couple decided to sell the house since they needed more space. It sold in five days. Three offers were made, all of them for more than the asking price."<sup>96</sup> In addition to frustrating home owners, undervaluing homes has a much more serious consequence. The appraised value of a home determines the amount of money a lending institution is willing to lend to a home owner. In this way it reduces the amount of a home owner's equity, which is the primary way that a family accumulates wealth.<sup>97</sup>

Underwriting practices may also be a barrier between protected class persons and home ownership. Underwriters sometimes insist that potential home owners pay no more than 28 percent of their monthly earnings toward house payments.<sup>98</sup> This is a difficult criterion for low income households to meet and particularly unrealistic for households who have been paying disproportionately larger portions of their earnings for rent for years. Some underwriters use rent payment history as a criterion which is helpful to persons who have successful long term rental histories.

### 3. REDLINING PRACTICES AND DISINVESTMENT

Redlining is an illegal lending practice by banking institutions that perpetuates concentrations of poverty in neighborhoods that are economically disadvantaged. The practice of redlining arose when financial institutions "literally drew a red line around neighborhoods deemed off-limits for

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<sup>95</sup> Spayd, Liz & Brenner, Joel Glenn. (1993, June 8). Learning to Spot the Signs of Bias: Borrowers Can fight Banks' Hidden Prejudices if They Know What to Look For. Washington Post.

<sup>96</sup> Meter, Ken. (1990, April). How Do You Know if You're Being Redlined? A Realtor Explains. Behind the Red Line: The Alley, p. 12.

<sup>97</sup> powell, john a. How Government Tax and Housing Policy Have Racially Segregated America. Unpublished, p. 16.

<sup>98</sup> Ibid, p. 12.

loans and homeowner's insurance."<sup>99</sup> With the outlawing of formal "redlining", more subtle banking practices developed with the same discriminatory effect.

A subtle form of redlining occurs in Minneapolis, according to one 1993 study. The Minnesota branch of ACORN found that applicants from low-income neighborhoods with high concentrations of persons of color in the Twin Cities area were denied insurance coverage three times more often than applicants from middle-class white neighborhoods.<sup>100</sup> ACORN members made test calls in St. Paul and Minneapolis for quotes on premiums for home insurance. Quoted rates averaged \$4.55 per \$1,000 of coverage in low income neighborhoods, \$3.72 per \$1,000 in middle class neighborhoods and \$2.72 in affluent areas.<sup>101</sup> This practice has the effect of discouraging homeownership for people of color in low income neighborhoods and leads to deterioration in the core city.

Disinvestment is the institutional practice of investing fewer resources in neighborhoods that are less financially profitable. The practice reduces the availability of services and products for lower income people in poorer neighborhoods. A 12 city banking, lending, and home insurance coverage study conducted by *US News and World Report* in 1994-95 found discrimination continuing on a large scale in several different forms.<sup>102</sup> The nationwide study found:

- residents in communities with a high percentage of low income people and people of color pay an average of twice as much for homeowner's insurance as residents in middle class neighborhoods.
- bank branches are moving out of low income neighborhoods and new banks are not moving

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<sup>99</sup>Loeb, Penny, Cohen, Warren, & Johnson, Constance. (1995, April 17). The New Redlining. *U.S. News & World Report*, pp. 51-56, 58.

<sup>100</sup> St. Anthony, Neal & Sundstrom, Ingrid. (1993, February 5). Insurance Redlining is Alleged: Group Says Low-Income Homeowners are Frozen Out. *Minneapolis Star Tribune*, p. 1B.

<sup>101</sup>ACORN used test example home values of \$60,000, \$95,000, and \$147,000 respectively. St. Anthony, Neal & Sundstrom, Ingrid. (1993, February 5). Insurance Redlining is Alleged: Group Says Low-Income Homeowners are Frozen Out. *Minneapolis Star Tribune*, p. 1B.

<sup>102</sup>Ibid.

in.<sup>103</sup>

- middle income African Americans from areas with concentrations of people of color were more than twice as likely to be rejected for mortgage loans as middle income whites living in mostly white areas.

#### **D. PUBLIC POLICIES AND ACTIONS AFFECTING THE APPROVAL OF SITES AND OTHER BUILDING REQUIREMENTS FOR THE CONSTRUCTION OF AFFORDABLE HOUSING**

Public policies and actions affecting the location and construction of affordable housing in Minneapolis are made by the city often with input from neighborhood groups. County and metro wide policies such as zoning laws also affect the distribution of affordable housing within the region. Decisions about how to allocate municipal resources made on a metro wide basis can favor suburban areas over the city. The net effect of the city, county, and metro policies is the unbalanced distribution of resources and affordable housing throughout the metro area. This section of the analysis looks at municipal services distribution among cities and examines the importance of land use and zoning policies. The section ends with a discussion of two plans proposed to aid in the dispersal of affordable housing in the metro area.

#### **1. THE DISTRIBUTION OF MUNICIPAL SERVICES**

The distribution of municipal resources, like road improvements and sewer and water access, is unequal from municipality to municipality. The Metropolitan Council, the planning agency for the seven county metro area, relied in the past upon its growth forecasts to determine the allocation of municipal resources.<sup>104</sup> This resulted in an expansion and subsidization of new infrastructure in the 1980's in suburban Hennepin County where growth was projected. A disproportionate amount of money was spent on infrastructure improvements in the southwestern suburban area,

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<sup>103</sup>Ibid. There are an average of 38 bank branches per 100,000 residents in white areas but only 22 branches in neighborhoods of people of color. The number of bank branches in white neighborhoods has tripled compared with the number of bank branches in areas of people of color in the past 20 years.

<sup>104</sup>Stahl, Joseph, G. (1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory, page 48.

an area that has 27 percent of the county's population and a high tax capacity.<sup>105</sup> This allocation of resources has led to tremendous job growth in the areas that received assistance-- largely communities with few people of color and few, if any, fair housing initiatives.<sup>106</sup>

The Metropolitan Council, in a change of development priorities in 1994, addressed the importance of policy initiatives that "foster the reinvestment in distressed areas".<sup>107</sup> Action steps include efforts to "retain the current urban service area [Minneapolis and St. Paul] for year 2000" and to "plan higher-density development along the selected transportation corridors and hubs."<sup>108</sup>

## 2. EXCLUSIONARY ZONING AND LAND USE POLICIES

Exclusionary zoning practices are practices which preclude low and moderate income households from a "reasonable opportunity to live in a community."<sup>109</sup> Exclusionary zoning also refers to whether or not a city's practices "create a realistic opportunity for low and moderate income housing to be built."<sup>110</sup> Local governments determine how land will be used and set standards on density and quality of housing as discussed above in local zoning laws. The manner in which this process is carried through may result in exclusionary zoning policies.

In addition to zoning laws, land use policies voted on by neighborhood groups within the city may also inhibit fair housing opportunities. Recently, neighborhood groups have issued moratoriums against low income housing. One group, representing the southeast edge of downtown, adopted a moratorium on building new low-income rental housing in 1993.<sup>111</sup> The neighborhood is 5

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<sup>105</sup>Orfield, Myron. Metropolitics: A Regional Agenda: DRAFT, pp. 107-108. Information extracted from Stahl, Joseph G.(1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory.

<sup>106</sup>Stahl, Joseph, G.(1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory, page 48.

<sup>107</sup>(1994, September). Regional Blueprint: Twin Cities Metropolitan Area. Metropolitan Council, p. I.

<sup>108</sup>Ibid. p. iii.

<sup>109</sup>Lukermann, Barbara L. & Keane, Michael P. (1994). Land Use Practices: Exclusionary Zoning, de Facto or de Jure? CURA, p. 3.

<sup>110</sup>Ibid, p. 5.

<sup>111</sup>Anderson, Mark. (1993, July). EPNI, CCHT Disagree Over Moratorium on Low-Income Housing. The Surveyor, pp. 1, 10.



percent owner occupied and the moratorium will stay in place until the neighborhood reaches 10 percent owner occupancy. Neighborhood group members state that the moratorium is not discriminatory but was adopted to ensure greater economic diversity. One board member for the neighborhood group said, "It's what residents have always asked for, from the first reports and studies. People have said they want a mix of incomes. They don't want to shove people out, or gentrify the area, nor do we want a totally low-income neighborhood."<sup>112</sup> Opponents of the plan, including a developer of low-income housing, feel the moratorium discriminates against low income people because it blocks the creation of low income housing.<sup>113</sup>

(For more information regarding the City of Minneapolis zoning policies, see Appendix H.)

### **3. METRO AREA AFFORDABLE HOUSING POLICIES**

Recognizing the inequities in the distribution of municipal resources and affordable housing, policy makers and planners have developed plans to redress the imbalances. Two such plans are discussed below. One proposal is the Metropolitan Council's affordable housing guidelines; the other is the Livable Communities Act passed by the 1995 Minnesota legislature.

#### **a. Metropolitan Council Guidelines**

The 1976 Metropolitan Planning Act provides in part for land use planning and official controls by the Metropolitan Council to promote development of low income housing on a region wide basis.<sup>114</sup> The Council developed specific guidelines to encourage the even distribution of affordable housing. The Act allows the Council to review local housing plans and suggest changes but compliance by local municipalities is voluntary. There are neither incentives nor sanctions for entities choosing not to comply.

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<sup>112</sup>Ibid, p. 10. Quote by Millie Schafer, EPNI board member.

<sup>113</sup>Anderson, Mike. (1993, August). Conflict Over Moratorium between CCHT, EPNI Continues. The Surveyor.

<sup>114</sup>Anderson, Mark. (1993, July). EPNI, CCHT Disagree Over Moratorium on Low-Income Housing. The Surveyor, pp. 1, 10.

The city of Minneapolis meets most of the recommendations for standards for building affordable housing; most other cities in Hennepin County do not. Consequently, Minneapolis is a magnet for attracting low income housing proposals, especially in neighborhoods with few other viable business opportunities.

The Metropolitan Council recommends the following affordability standards for local zoning laws and policies:

1) The elimination of floor area minimums for single family homes and multi-family units in excess of state building code requirements. The state code requires minimums of 625 and 700 square feet for two and three bedroom homes. Minneapolis does not have a requirement for floor area minimums. By contrast, 42 percent of all other Hennepin County cities require floor area minimums. These minimums are an important factor in setting housing prices and if the minimums are high, may increase the number of unaffordable housing units in Minneapolis suburbs.<sup>115</sup>

2) A set minimum of 6,000 to 8,000 square feet lot size for single family homes. Lot size requirements are important because smaller lot sizes are often associated with smaller, more affordable houses. Larger lots and larger more expensive houses mean homeownership is out of the reach of lower income households. Minneapolis does not have a minimum lot size requirement greater than 8000 square feet; 63 percent of all other Hennepin County cities do have requirements larger than the suggested minimum. As a result, lower income homeowners are concentrated in Minneapolis.

3) Allow multi-family densities of 20 units per acre or more in areas with adequate sewer

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<sup>115</sup>Kaszuba, Mike & Brandt, Steve. (1994, February 28). Suburban Zoning Shuts Out the Poor. Minneapolis Star Tribune, pp. 1A, 6A. Hennepin county cities referred to are: Bloomington, Brooklyn Center, Crystal, Edina, Golden Valley, Hopkins, New Hope, Richfield, Robbinsdale, St. Louis Park, Brooklyn Park, Champlin, Deephaven, Eden Prairies, Maple Grove, Minnetonka, Orono, Plymouth, Wayzata.

services.<sup>116</sup> The majority of affordable housing is multi-family. Higher densities of multi-family units decrease construction costs per unit which in turn results in lower rents. Minneapolis does not have a density greater than 20 units per acre; 47 percent of other Hennepin County cities do have such restrictions.

4) Eliminate garage requirements. Garages are another expense that can increase housing costs and put homeownership out of the reach of lower income households. Garages can add 10 percent to costs of a multi-family unit and approximately \$9,000 to the price of a home. Minneapolis does not have a garage requirement for single family homes or multi-family units. Thirty-two percent of other Hennepin County cities require a two car garage for single family homes.

5) Allow manufactured housing in some areas of each city.<sup>117</sup> Manufactured housing is often an affordable housing alternative. Cities cannot outlaw manufactured homes in single family districts, but conditions can be imposed that make the housing essentially unaffordable. Minneapolis does not allow manufactured housing outside single family districts, nor does 80 percent of all other Hennepin County cities.

6) Elimination of multi-family housing barriers such as additional layers of administrative review before project approval, the down-zoning of areas from high density to low density usage, and additional restrictions placed on number of occupants allowed per unit according to bedroom size. These practices restrict the production of multifamily units and reduce options for larger families.

- Additional layers of administrative review may result in rejection of multi-family units and may give community opposition a forum for speaking. The NIMBY (Not in My BackYard) phenomenon, where individuals support efforts until they are proposed in their own

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<sup>116</sup>Brandt, Steve. (1994, March 2). Developer Fights to Build Townhomes in Mendota Heights. Minneapolis Star Tribune, pp. 1A, 8A.

<sup>117</sup>Manufactured housing is

neighborhood out of fear that negative effects will come from the new addition, is often perpetuated in local forums when the addition of publicly assisted housing is discussed. These fears are largely unfounded according to Ed Goetz, a professor at the University of Minnesota. In his study "There Goes the Neighborhood? The Impact of Subsidized Multi-family Housing in Urban Neighborhoods", Goetz found that the presence of nonprofit subsidized multi-family units in Minneapolis had little significant effect on crime and property values, contrary to popular belief.<sup>118</sup>

- Down zoning and moratoriums on low income housing also restrict affordable housing opportunities. Down zoning areas from high density to low density reduces the amount of usable land. Cities that have done this have shown a decrease in affordable multi-family housing.<sup>119</sup> The placement of moratoriums on the production of low income housing will be discussed in the next section, "Land use policies, exclusionary zoning and displacement".

7) Realistic use of fees in the building process. Currently, fees vary greatly from city to city. Building permits can range from \$1,500 to \$6,000 between communities with city officials unable to justify easily the basis for the differences in cost.<sup>120</sup>

#### **b. The Livable Communities Act**

Passed by the 1995 Minnesota Legislature, the Metropolitan Livable Communities Act is an attempt to go one step further in developing a region wide housing policy. Financial incentives are available for municipalities choosing to participate. Under the Act, the state will offer \$1 million to aid in the development of more affordable housing in the suburbs in 1996.<sup>121</sup> A local

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<sup>118</sup>Goetz, Edward, Heitlinger, Ann, & Lam, Hin Kin. (1995, July 15). There Goes the Neighborhood? The Impact of Subsidized Housing on Urban Neighborhoods. Neighborhood Planning for Community Revitalization, p. v.

<sup>119</sup>Kaszuba, Mike & Brandt, Steve. (1994, February 28). Suburban Zoning Shuts Out the Poor. Minneapolis Star Tribune, pp. 1A, 6A.

<sup>120</sup> Stahl, Joseph, G.(1995, Fall). Analyzing Impediments to Fair Housing Choice in Hennepin County, MN: A Resource Directory, , page 48. Information received from Glen Dorfman, MN Association of Realtors.

<sup>121</sup>Kaszuba, Mike. (1995, November 16). 90 Suburbs Interested in Affordable Housing. Minneapolis Star Tribune. The Act defines an affordable housing as one costing \$115,000 in 1994 dollars. Housing advocates emphasize this interpretation of the word "affordable" is too liberal and will not help the poor of the area.

housing incentives fund permits the Metropolitan Council to fund programs meeting community housing goals negotiated by participating municipalities and the Council. At the time of the participation deadline in mid-November 1995, 90 communities of the 187 eligible had signed up to participate.<sup>122</sup> Of the 79 suburbs called "developing suburbs", due to the developing and construction currently taking place, 60 signed up for the program by the time of the deadline.

Funding priorities include projects that link job opportunities with affordable housing. Another feature of the Act is the creation of Urban Revitalization and Stabilization Zones. Home ownership will be encouraged in these zones (where there is a preponderance of poverty) by five year tax breaks on state income taxes for homes purchased within a specified period.

It remains to be seen how effective this new approach will be in increasing housing choice in the metro area.

#### **E. COMMUNITY DEVELOPMENT AND HOUSING POLICIES WHICH AFFECT OPPORTUNITIES OF PROTECTED CLASS PEOPLE TO OBTAIN AFFORDABLE HOUSING IN MINNEAPOLIS**

At the state and local level, administrative policies for community development and housing affect options for housing people of color outside of those historically concentrated with people of color. In the city, neighborhood revitalization plans being developed by neighborhood groups working to enhance their communities.

On a state level, policies such as the property tax structure impair opportunities for low income people because the tax system is regressive in nature. Rental property is taxed at a higher rate than homesteaded property in Minnesota, which negatively affects renters, who are disproportionately lower in income than homeowners.

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<sup>122</sup>Ibid.

Finally, city decisions about housing demolition and family displacement affect the number and location of affordable units.

## 1. NEIGHBORHOOD REVITALIZATION PLANS

In 1991 Minneapolis initiated a Neighborhood Revitalization Plan (NRP) with four primary goals: building neighborhood capacity, redesigning public services, increasing government collaboration, and creating a sense of community.<sup>123</sup> The process involves neighborhood groups working in conjunction with five governmental jurisdictions to develop plans by which neighborhoods can be strengthened and revitalized.<sup>124</sup> The Minnesota legislature and City Council committed \$20 million a year for the next twenty years to fund the project. Funding is disbursed to neighborhood groups based on the needs identified in neighborhood plans and approved by governmental jurisdictions. Needs identified by communities include housing, safety, economic development, transportation, and recreation, as well as other issues.<sup>125</sup>

Housing issues are a dominant component of NRP planning. Funding for projects designated in neighborhood plans is allocated according to the broad policy area in which it is encompassed. According to state statute, "*Housing programs and related purposes*" are required to constitute *at least 52.5 percent of NRP expenditures*. In September 1994 the NRP Policy Board defined "related purposes" to be:

increasing owner occupancy, improving rental housing management, meeting the requirements of the housing code, raising energy efficiency, stabilizing or upgrading the housing stock, removal of vacant and boarded housing structures, creating housing opportunities that expand the tax base of the city, and enlarging existing lots to increase the value of the structures on them or to reduce neighborhood problems.<sup>126</sup>

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<sup>123</sup> Neighborhood Revitalization Program. (1995, March). Building Community by Building Partnerships: The Minneapolis Neighborhood Revitalization Program Progress Report.

<sup>124</sup> The five jurisdictions are: the City of Minneapolis, Hennepin County, the Minneapolis Board of Education, the Minneapolis Park and Recreation Board, and the Minneapolis Library Board.

<sup>125</sup> Neighborhood Revitalization Program. (1995, March). Building Community by Building Partnerships: The Minneapolis Neighborhood Revitalization Program Progress Report, pp. 1-2.

<sup>126</sup> Fainstein, Susan S., Hirst, Charles, & Tennebaum, Judith. (1995, January 9). An Evaluation of the Minneapolis Neighborhood Revitalization Program. Center for Urban Policy Research-Rutgers, The State University of

According to an evaluation of the NRP by Susan Fainstein et al. in 1994, the allocation of funds for housing related purposes, as determined by the above definition, in neighborhood plans was on average 63 percent of all NRP funding.<sup>127</sup>

Examples of projects include:<sup>128</sup>

- the Kingfield neighborhood home improvement program to improve 47 owner-occupied and 9 rental homes;
- the Logan Park Home Improvement program providing matching grants for exterior improvements to 49 homeowners;
- the Powderhorn Park Chicago Corridor project involving the acquisition and rehabilitation of 2 fourplexes, rehabilitation and rental of 10 3-bedroom rental units at affordable rents;
- the Hawthorne neighborhood 23rd and Dupont Comprehensive Block Revitalization entailing the removal of 6 blighted buildings, purchase of 2 lots, and building of 4 single family homes.

While the amount of money being funneled into housing activities in Minneapolis neighborhoods is not being questioned, there have been concerns over the way in which housing activities are chosen and who the people who benefit most from the activities. Due to the power structure of the neighborhood organizations that determine what the agendas of the neighborhood action plans will be, controversy has arisen over whether or not the action plans are benefiting low income families in need of affordable housing.

A 1994 study done by Ed Goetz and Mara Sidney looked at the impact the NRP had on three neighborhood groups.<sup>129</sup> Their study examined the Whittier, Stevens Square, and Jordan neighborhood efforts in the NRP process. According to Goetz and Sidney, the implementation of the NRP process has splintered neighborhoods. In the neighborhood planning process, landlord/homeowner groups and renter populations often had opposing visions; lower income

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New Jersey, p. 68.

<sup>127</sup> Ibid, p. 68.

<sup>128</sup> Neighborhood Revitalization Program. (1995, March). Building Community by Building Partnerships: The Minneapolis Neighborhood Revitalization Program Progress Report, pp. 17-18.

<sup>129</sup> Goetz, Edward G. & Sidney, Mara S. (1994). The Impact of the Minneapolis Neighborhood Revitalization Program on Neighborhood Organizations, pp. 1-2.

renters were left out of the planning discussions entirely. Their main criticism of the NRP process in Whittier and Stevens Square was that in both neighborhoods, property owners had succeeded in pushing their vision for the neighborhoods as the dominant strategy in the plans.

Whittier, for example, with a 10 percent owner-occupancy rate, has a housing stock in great need of rehabilitation. In implementing the neighborhood revitalization planning process, the Whittier Alliance, the local neighborhood group, decided to redefine the needs of the neighborhood to exclude more multi-family low-income cooperative housing. The neighborhood group leadership, which is overrepresented by homeowners and business owners, has steered housing strategies toward focusing on home ownership opportunities instead of the rehabilitation of multi-family buildings and the creation of leasehold cooperatives. The Board President of the Whittier Alliance justifies the shift in strategies by saying, "I feel that the board, the people who are invested in the neighborhood, who have a different vision for the neighborhood, should try to steer it in a healthier direction, in a more economically balanced and vital kind of way, to help everyone in the end."<sup>130</sup> Goetz and Sidney argue that the strategies employed by neighborhood groups take into account the interests of only those perceived to be stakeholders, the owners and landlords, therefore leaving renters with little ability to influence neighborhood direction.

The issue of whether or how much the NRP process is meant to include the interests of low income residents is unclear. If it is meant to include the affordable housing and other needs of low income renters, the process may have to be more inclusive. The NRP in Minneapolis must look at whether neighborhoods with low income renters are adequately addressing needs for affordable housing. A survey completed by Community Action of Minneapolis of 1,818 low income residents applying for energy assistance supports the point Goetz and Sidney made in their analysis of NRP. The Community Action of Minneapolis study found that 88 percent of those low income Minneapolis residents surveyed had never participated in any NRP activities.<sup>131</sup> Goetz

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<sup>130</sup> Ibid, p. 12.

<sup>131</sup> Snow, Christy. (1994). Profile of Poverty: Minneapolis Fall 1994. Community Action of Minneapolis. Unpublished.



and Sidney summarize their views on the NRP process:

If NRP is, indeed, about working- and middle-class people, then the income and property bias of the model does not constitute a problem for city officials. If, on the other hand, lower-income people are to expect anything from the revitalization process, the impacts of NRP on the structure and strategy of neighborhood organizations are problems that need to be addressed.<sup>132</sup>

## 2. PROPERTY TAX CODES

Property tax codes as they are currently structured in Minnesota are regressive in nature; disproportionately taxing the poor more than the wealthy. State and federal property tax codes heavily favor homesteaded property over rental property.<sup>133</sup> The tax rate on rental property in Minnesota is 3-3 ½ times higher than that on homesteaded property of equal value, according to the Metropolitan Council.<sup>134</sup> The higher tax rate for rental properties affects renters in two ways. First, in the short run, market forces will determine the rents landlords will be able to charge; therefore taxes may decrease the amount of operating revenue landlords have at their disposal. This means landlords may put off repairs which results in a declining rental housing market.<sup>135</sup> Second, over the long run, as property taxes increase, landlords will increase the rents they charge tenants in order to absorb the increase, therefore putting the burden of the higher taxes on the tenants themselves.<sup>136</sup>

The state and federal income tax structure also benefits homeowners more than renters; homeowners can reduce their tax burden by deducting property taxes and home mortgage interest on state and federal income taxes.<sup>137</sup>

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<sup>132</sup> Goetz, Edward G. & Sidney, Mara S. (1994). The Impact of the Minneapolis Neighborhood Revitalization Program on Neighborhood Organizations.

<sup>133</sup> Peterson, Randy (Chair). (1994, May). The Case for a Regional Housing Policy in the Twin Cities Metropolitan Area. Citizens League, p. 13.

<sup>134</sup> Office of City Coordinator. (1995, April 7). The FY95 Minneapolis Consolidated Plan for Housing and Community Development, p. 59. This figure has already taken into account the rent credit available to renters.

<sup>135</sup> Peterson, Randy (Chair). (1994, May). The Case for a Regional Housing Policy in the Twin Cities Metropolitan Area. Citizens League, p. 13.

<sup>136</sup> Ibid, p. 13.

<sup>137</sup> Ibid, pp. 12-13.

Another factor that adversely affects housing choices for lower income families is the Federal Tax Reform Act of 1986. The Act reduces tax advantages and decreases resources for developers of low income housing and in so doing serves as a disincentive for landlords to produce and operate low income rental housing.<sup>138</sup> In reducing tax advantages for rental housing landlords, state and federal tax codes have essentially increased multi-family unit deterioration, landlord abandonment and contract-for-deed cancellations within the city.<sup>139</sup> The Minneapolis Inspections Department had an estimated 420 buildings on its boarded and condemned list in January 1994 with approximately 35 to 40 units being condemned monthly by the department. The trend of deterioration concerns city officials. For this reason, the city is supportive of state legislation that will make rental property taxes similar to other property tax burdens.<sup>140</sup> Fair housing advocates believe it does not appear rental property tax reform will occur in this year's upcoming Minnesota legislative session.<sup>141</sup>

### **3. DEMOLITION OF HOUSING AND DISPLACEMENT OF RESIDENTS**

Minneapolis housing demolition permits issued in 1994 exceeded the number of construction permits issued by 156 units. Demolitions in 1994 were at a five year high with 290 units, of which 77 percent were two or more unit buildings. According to the City Planning Department, the higher levels of demolition reflect a continued effort to reduce the number of boarded and condemned residential units.<sup>142</sup> Construction permits in 1994 were at a four year high with 134 units, with 73 percent for multi-family rental units.

Displacement of individuals from housing due to administrative policies concerning community development and housing activities is sometimes a result of demolition and efforts to disperse individuals out of areas of high concentrations of poverty. Demolition patterns for low income

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<sup>138</sup> Office of City Coordinator. (1995, April 7). The FY95 Minneapolis Consolidated Plan for Housing and Community Development, p. 32.

<sup>139</sup> Ibid, p. 32.

<sup>140</sup> Ibid, p. 59.

<sup>141</sup> Discussion at a Minnesota Right to Housing Meeting, November 28, 1995.

<sup>142</sup> City Planning Department. (1995, January). Construction and Demolition. State of the City 1994: A Statistical Portrait of Minneapolis, p. 47.

housing will be drastically altered in the next few years as the Minneapolis Public Housing Authority seeks to meet the requirements of the settlement in the Hollman case (See, Section IV, F1 for details of the settlement and the effect it will have on the displacement of low income people and their ability to find affordable housing elsewhere in the city). The settlement will result in the demolition of public housing buildings in North Minneapolis and the dispersal of 770 Near North neighborhood households to other parts of the city or to suburbs.

Another type of public housing dispersal will be implemented over the next several years. HUD recently issued new regulations allowing public housing authorities to reserve some buildings for low income seniors.<sup>143</sup> For the past eleven years, high-rises reserved for seniors have been available for younger people with disabilities. Since this decision was made, Minneapolis seniors have shared buildings with younger residents. Many seniors have noted increased noise, vandalism, repair problems, and crime. Seniors led a campaign to get some senior buildings set aside for senior use only. HUD has approved the request from the City of Minneapolis to reserve some high-rises for seniors only. This action will not, however, involuntarily displace younger residents currently living in the buildings. Under HUD guidelines, current younger residents cannot be asked to leave, but will be replaced with older tenants when they choose to leave.<sup>144</sup> The city currently has approval to make three buildings seniors-only and will most likely set aside more buildings in the future.

#### **F. SEGREGATION POLICIES IN MINNEAPOLIS PUBLIC HOUSING AND PROPOSED REMEDIES**

In 1992 the Minneapolis NAACP, Lucy Hollman and others filed a class action suit against the Minneapolis Public Housing Authority (MPHA), the Minneapolis Community Development Association (MCDA), the City of Minneapolis, the Metropolitan Council, and the Department of

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<sup>143</sup> Wolfe, Warren. (1995, April 6). Minneapolis Moves to Reserve High-Rises for Senior Citizens. Minneapolis Star Tribune, p. 1A.

<sup>144</sup> Ibid.

Housing and Urban Development (HUD). The case, *Hollman et al. vs Cisneros et al.*, charged racial discrimination in the administration of Minneapolis public housing and Section 8 certificate programs since the 1940's and 50's.<sup>145</sup> The lawsuit alleged that public housing and Section 8 certificate and voucher holders in Minneapolis are unlawfully concentrated in low income neighborhoods with high percentages of populations of people of color.<sup>146</sup> According to the suit, two thirds of housing certificates for low-income renters and 60 percent of scattered site housing in the city are currently concentrated in census tracts with high concentrations of people of color.<sup>147</sup> Housing officials have long argued that the policies are not discriminatory, but that concentrations of low-income housing reflect where people choose to live.

The lawsuit was settled in April 1995. The settlement included \$100 million from HUD to help finance the dispersal of 770 units of public housing and to finance Section 8 rent subsidies for another 900 low income families.<sup>148</sup> It also provided for the demolition of the Sumner-Olson and Glenwood-Lyndale public housing projects in the Near North section of Minneapolis. New public housing units will be distributed throughout the city and surrounding suburbs.<sup>149</sup> Other conditions of the settlement include a fair housing study, conducted by consultants retained by HUD, HUD funding for counseling services for Section 8 certificate holders, and limited scattered site home sales and renovations.<sup>150</sup>

The court-sanctioned public housing dispersal plan has created issues among Minneapolis City Council members. Discussions in a Minneapolis City Council meeting in May 1995, under the

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<sup>145</sup> The suit was filed in the name of Lucy Hollman, a single mother and longtime resident of the North Side projects. Henry Cisneros is the current Secretary of HUD.

<sup>146</sup> Office of City Coordinator.(1995, April 7). The FY95 Minneapolis Consolidated Plan for Housing and Community Development, pp. 64-65.

<sup>147</sup> Hopfensperger, Jean. (1994, February 23). Met Council is New Target in Public Housing Dispute. Minneapolis Star Tribune, p. 1B.

<sup>148</sup> Brandt, Steve & Draper, Norman. (1995, June 5). House the Poor, Sure: The Fight is Over Where. Minneapolis Star Tribune, p. 1A.

<sup>149</sup> Buchta, Jim. (1995, April 22). The Revival of a Community; Residents, Agencies Lead Effort to Revitalize Near North, Minneapolis Star Tribune.

<sup>150</sup> Office of City Coordinator.(1995, April 7). The FY95 Minneapolis Consolidated Plan for Housing and Community Development, p. 66.

leadership of Mayor Sayles-Belton, occurred over the creation of a generic set of principles for improving housing stock, preserving neighborhoods and giving more individuals options of where to live in hopes of "improving the balance of assisted housing throughout the city".<sup>151</sup> A debate involving ward politics arose when the principles were discussed.

Since then, the City Council has passed a resolution outlining principles for housing and tax base growth in the City of Minneapolis. (See Appendix I for full text). The City Council adopted the following Housing Principles:<sup>152</sup>

1. The variety of housing types throughout the city, its communities, and the metropolitan area shall be increased, giving prospective buyers and renters greater choice in where they will live.
2. The management, quality and balance of subsidized housing throughout the City and the Metro area shall be improved.
3. Housing markets that are already strong shall be preserved and strengthened.
4. The quality of Minneapolis housing stock shall be preserved.

Specifics of the resolution include provisions that up to 20 percent of the units in new multifamily housing developments should be affordable. It also states that subsidized housing be dispersed metro-wide. "No community should receive greater concentration than the metro average."<sup>153</sup> The resolution also reinforces the use of the neighborhood revitalization action plans as a basis for implementing the city's housing policy.

The city council has also debated the court ordered mandates in the Hollman case. The three central wards of the city have a disproportionate share of low-income housing, so it is generally believed that the remaining ten wards will absorb the newly created low income housing.<sup>154</sup> Some

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1A. <sup>151</sup> Diaz, Kevin. (1995, May 27). Mayor's Housing Proposals Stir Bitter Debate. Minneapolis Star Tribune, p.

<sup>152</sup> Resolution of the City of Minneapolis 95R 198, Housing Principles.

<sup>153</sup> Ibid.

<sup>154</sup> Diaz, Kevin. (1995, May 27). Mayor's Housing Proposals Stir Bitter Debate. Minneapolis Star Tribune, p.

council members, especially those with wards on the city's fringe, feel moving poor people into their neighborhoods will degrade the quality of the neighborhoods.<sup>155</sup> One council member, Alice Rainville, made a remark about subsidized housing residents who "know how to replace a car engine but don't cut their grass."<sup>156</sup> Other council members question the redistribution within the city, claiming it would take the pressure off suburbs to accept their share. The Mayor, however, says she is committed to creating a comprehensive housing policy that would create stable and integrated neighborhoods throughout the city.<sup>157</sup> As of December 1995, decisions on where the housing will be located had not been finalized.

Metro area suburban politicians and officials are also concerned about the potential disbursement of Minneapolis public housing. No legal mandates require suburbs to produce a share of affordable housing units, but incentives for communities to become involved will be developed. When asked about the Hollman settlement, Donald Schneider, the community development director for Columbia Heights said, "We'd rather take care of our own than take on low-income residents from Minneapolis."<sup>158</sup> The Head of the Dakota County Housing and Redevelopment Authority, Mark Ulfers, said of the settlement, "We aren't defendants in this lawsuit, yet it appears the lawsuit settlement is asking the suburbs to bear a significant part of the responsibility for this past discrimination. That's problematic in my mind."<sup>159</sup> Others say that they might be willing to develop some affordable housing, but will not be held responsible if other communities do not. Regina Harris, administrator of Bloomington's housing agency, said, "We'll take our fair share, but we don't want to take more than our fair share just because others might not be willing to do it, or might not have the means to do it."<sup>160</sup> An incentive offered in the settlement involves making additional low-cost housing funds available for a community's own residents. HUD may

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1A. <sup>155</sup> Brandt, Steve & Draper, Norman. (1995, June 5). House the Poor, Sure: The Fight is Over Where. Minneapolis Star Tribune, p. 1A.

<sup>156</sup> Diaz, Kevin. (1995, May 27). Mayor's Housing Proposals Stir Bitter Debate. Minneapolis Star Tribune, p. 1A.

<sup>157</sup> Ibid.

<sup>158</sup> Ibid.

<sup>159</sup> Brandt, Steve & Draper, Norman. (1995, June 5). House the Poor, Sure: The Fight is Over Where. Minneapolis Star Tribune, p. 1A.

<sup>160</sup> Ibid.

also consider shutting communities out of other HUD programs if they do not participate in the dispersal of housing.<sup>161</sup>

The number of units the suburbs will be asked to take has not yet been decided. The two most extreme scenarios show a dispersal of between 322 - 690 units to the suburbs, depending on whether Minneapolis decides to keep the minimum or maximum number of units at the North Side projects location. If the city decides to abolish all units there, 690 units would be disbursed. If the maximum number of 368 units were kept there, 322 units would be disbursed to the suburbs. These suburban dispersal figures do not include the additional 900 subsidized rent vouchers also mandated in the settlement. Voucher holders may choose either Minneapolis or the suburbs.<sup>162</sup>

If the preference of Hollman families is determinative of where units need to be produced, a survey of low income city residents conducted in the Fall of 1994 is illustrative. When asked "If you could choose whether to live in Minneapolis or a suburb, which would you choose?", 44.5 percent ( 1054 respondents) answered the suburbs.<sup>163</sup> By this measure alone, a substantial share of the housing should be available in the suburbs.

Timothy Thompson, a Legal Aid attorney representing public housing clients in the case, said that as of November 1995, discussion about how the stages of the settlement would be implemented continues unresolved.<sup>164</sup> The most recent information included the following time line:

- Fall 1995: Begin relocation and self sufficiency counseling for residents.
- 1997-98: Deadline for when Sumner Field residents complete move out (350 units) and building is razed. 48 substandard scattered site units are sold.
- 2000: Deadline for completion of disposal of 372 units in Glenwood, Olson, and Lyndale

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<sup>161</sup> Telephone interview, Timothy Thompson Legal Aid Attorney, November 22, 1995.

<sup>162</sup> Brandt, Steve & Draper, Norman. (1995, June 5). House the Poor, Sure: The Fight is Over Where. Minneapolis Star Tribune, p. 1A.

<sup>163</sup> Snow, Christy. (1994). Profile of Poverty: Minneapolis Fall 1994. Community Action of Minneapolis. Unpublished.

<sup>164</sup> Telephone interview, Timothy Thompson Legal Aid Attorney, November 22, 1995.

complexes.

- 2001: Deadline for completion of replacement housing.<sup>165</sup>

## **V. IDENTIFICATION AND DESCRIPTION OF EXISTING PROGRAMS, SERVICES, AND ACTIVITIES THAT ASSIST IN THE PROVISION OF FAIR HOUSING**

Several agencies provide fair housing services in Minneapolis. The organizations are listed below with brief descriptions of what services they offer.

### **A. PUBLIC AGENCIES THAT PROVIDE FAIR HOUSING SERVICES**

The Minnesota State Department of Human Rights

Bremer Tower, 7th Place and Minnesota St.

St. Paul, MN 55101

(612) 296-5663

The Minnesota State Department of Human Rights accepts and investigates complaints of housing discrimination. The department also has an education and outreach program where staff travel statewide to make presentations on human rights issues such as fair housing.

The Minneapolis Civil Rights Department

239 City Hall

Minneapolis, MN 55415

(612) 673-3012

The Minneapolis Civil Rights Department is the administrative arm of the Civil Rights Commission. The department accepts and investigates complaints of discrimination before referring them to a hearing before the Commission. The agency also distributes a Minnesota Fair Housing Manual to property owners and citizens. It also conducts workshops with the Multi Housing Association, a landlord and property manager's association.

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<sup>165</sup> Brandt, Steve & Draper, Norman. (1995, June 5). House the Poor, Sure: The Fight is Over Where. Minneapolis Star Tribune, p. 1A.



The Department of Housing and Urban Development (HUD)  
220 Second St. So.  
Minneapolis, MN 55401-2195  
(612) 370-3000

HUD monitors public housing authorities, provides technical assistance to cities and counties receiving CDBG funding, and advises property owners statewide on how to meet federal fair housing requirements.

## **B. PRIVATE ORGANIZATIONS WORKING ON FAIR HOUSING ISSUES**

Legal Aid Housing Discrimination Law Project  
2929 Fourth Ave. So.  
Minneapolis, MN 55408  
(612) 827-3774

The Legal Aid Housing Discrimination Law Project offers free legal assistance to eligible low-income people who feel they may have been discriminated against in seeking housing. The project also provides mentoring of private practice attorneys and community legal education regarding housing and public policy advocacy. The project received initial funding of \$268,000 from HUD under its Fair Housing Initiative.<sup>166</sup> The project handles complaints from people on a state wide basis.

Minnesota Fair Housing Center  
2322 Blaisdell Ave. So.  
Minneapolis, MN 55404  
(612) 872-6088

The mission of the Minnesota Fair Housing Center is to promote compliance with fair housing laws throughout Minnesota by means of research, education, and advocacy. The Center conducts tests of rental and sales properties to determine whether discrimination exists. Using trained testers, the Center conducts tests of properties where complaints have been filed, documents the

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<sup>166</sup>Washington, Wayne. (1995, March 3). Legal Aid Project Takes on Housing Bias. Minneapolis Star Tribune, p. 5B.

results, and reports the results to the referring agency for action. To date the Center has received referrals from the HDLP, the Gay/Lesbian Community Action Council, Community Action of Minneapolis, and the MN Department of Human Rights.<sup>167</sup>

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<sup>167</sup> The MN Fair Housing Center has completed 13 tests for the HDLP based on race, familial status, and public assistance. They have also completed one test for the Gay/ Lesbian Community Action Council based on sexual orientation, one test for Community Action of Minneapolis based on race, and four tests for the MN Department of Human Rights on race. Information obtained in a telephone interview with Christy Snow, MN Fair Housing Center, December 3, 1995.

# **APPENDIX A**

## **Fair Housing Laws**

**Federal**

**State**

**Municipal**

## **Federal Fair Housing Laws**

receive and process complaints or otherwise engage in enforcement activities under this title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

State and local governments.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

Safety.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others."

42 USC 3606, 3604.

(b) **ADDITIONAL PROTECTED CLASSES.**—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

42 USC 3602 note.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

(c) **DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**—Section 805 is amended to read as follows:

**"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS**

42 USC 3605.

**"SEC. 805. (a) IN GENERAL.**—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

**"(b) DEFINITION.**—As used in this section, the term 'residential real estate-related transaction' means any of the following:

**"(1) The making or purchasing of loans or providing other financial assistance—**

**"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or**

**"(B) secured by residential real estate.**

**"(2) The selling, brokering, or appraising of residential real property.**

**"(c) APPRAISAL EXEMPTION.**—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status."

42 USC 3607.

(d) **ADDITIONAL EXEMPTION.**—Section 807 is amended—

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(1) by inserting "(a)" after "Sec. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)."

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

#### SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

Regulations.  
Aged persons.

Aged persons.

Drugs and drug  
abuse.

42 USC 3604.

42 USC 3608.

- Sec. 3601. Declaration of policy.
- 3602. Definitions.
- 3603. Effective dates of certain prohibitions.
  - (a) Application to certain described dwellings.
  - (b) Exemptions.
  - (c) Business of selling or renting dwellings defined.
- 3604. Discrimination in the sale or rental of housing and other prohibited practices.
- 3605. Discrimination in residential real estate-related transactions.
  - (a) In general.
  - (b) "Residential real estate-related transaction" defined.
  - (c) Appraisal exemption.
- 3606. Discrimination in the provision of brokerage services.
- 3607. Religious organization or private club exemption.
- 3608. Administration.
  - (a) Authority and responsibility.
  - (b) Assistant Secretary.
  - (c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review.
  - (d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes.
  - (e) Functions of Secretary.
  - (f) Provisions of law applicable to Department programs.
- 3608a. Observation of certain data.
  - (a) In general.
  - (b) Reports to Congress.
- 3609. Education and conciliation; conferences and consultations; reports.
- 3610. Administrative enforcement; preliminary matters.
  - (a) Complaints and answers.

## Sec.

- (b) Investigative report and conciliation.
- (c) Failure to comply with conciliation agreement.
- (d) Prohibitions and requirements with respect to disclosure of information.
- (e) Prompt judicial action.
- (f) Referral for State or local proceedings.
- (g) Reasonable cause determination and effect.
- (h) Service of copies of charge.
- 3611. Subpoenas; giving of evidence.
  - (a) In general.
  - (b) Witness fees.
  - (c) Criminal penalties.
- 3612. Enforcement by Secretary.
  - (a) Election of judicial determination.
  - (b) Administrative law judge hearing in absence of election.
  - (c) Rights of parties.
  - (d) Expedited discovery and hearing.
  - (e) Resolution of charge.
  - (f) Effect of trial of civil action on administrative proceedings.
  - (g) Hearings, findings and conclusions, and order.
  - (h) Review by Secretary; service of final order.
  - (i) Judicial review.
  - (j) Court enforcement of administrative order upon petition by Secretary.
  - (k) Relief which may be granted.
  - (l) Enforcement decree in absence of petition for review.
  - (m) Court enforcement of administrative order upon petition of any person entitled to relief.
  - (n) Entry of decree.
  - (o) Civil action for enforcement when election is made for such civil action.
  - (p) Attorney's fees.
- 3613. Enforcement by private persons.
  - (a) Civil action.
  - (b) Appointment of attorney by court.
  - (c) Relief which may be granted.
  - (d) Effect on certain sales, encumbrances, and rentals.
  - (e) Intervention by Attorney General.
- 3614. Enforcement by Attorney General.
  - (a) Pattern or practice cases.
  - (b) On referral of discriminatory housing practice or conciliation agreement for enforcement.
  - (c) Enforcement of subpoenas.
  - (d) Relief which may be granted in civil actions under subsections (a) and (b).
  - (e) Intervention in civil actions.
- 3614a. Rules to implement subchapter.
- 3615. Effect on State laws.
- 3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register.
- 3617. Interference, coercion, or intimidation.
- 3618. Authorization of appropriations.
- 3619. Separability of provisions.

## SUBCHAPTER II—PREVENTION OF INTIMIDATION

- 3631. Violations; bodily injury; death; penalties.

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 5304 of this title.

## SUBCHAPTER I—GENERALLY

## SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1437f, 3608a, 4621, 6727 of this title; title 23 section 117; title 49 App. sections 1604, 2208.

## § 3601. Declaration of policy

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.

(Pub. L. 90-284, title VIII, § 801, Apr. 11, 1968, 82 Stat. 81.)

## EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-430, § 13(a), Sept. 13, 1988, 102 Stat. 1636, provided that: "This Act and the amendments made by this Act [see Short Title of 1988 Amendment note below] shall take effect on the 180th day beginning after the date of the enactment of this Act (Sept. 13, 1988)."

## SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-430, § 1, Sept. 13, 1988, 102 Stat. 1619, provided that: "This Act [enacting sections 3610 to 3614a of this title, amending sections 3602, 3604 to 3608, 3615 to 3619, and 3631 of this title and sections 2341 and 2342 of Title 28, Judiciary and Judicial Procedure, repealing former sections 3610 to 3613 of this title, and enacting provisions set out as notes under sections 3601 and 3602 of this title] may be cited as the 'Fair Housing Amendments Act of 1988'."

## SHORT TITLE

Section 1 of Pub. L. 90-284, as added by Pub. L. 100-430, § 2, Sept. 13, 1988, 102 Stat. 1619, provided: "That this Act [enacting this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amending sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacting provisions set out as notes under sections 231 and 245 of Title 18, and repealing provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Civil Rights Act of 1968'."

Section 800 of Pub. L. 90-284, title VIII, as added by Pub. L. 100-430, § 4, Sept. 13, 1988, 102 Stat. 1619, provided that: "This title [enacting this subchapter and amending sections 3533 and 3535 of this title] may be cited as the 'Fair Housing Act'."

## SEPARABILITY OF PROVISIONS

Pub. L. 100-430, § 14, Sept. 13, 1988, 102 Stat. 1636, provided that: "If any provision of this Act [see Short Title of 1988 Amendment note above] or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

## DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS

Pub. L. 100-430, § 12, Sept. 13, 1988, 102 Stat. 1636, provided that: "Nothing in the Fair Housing Act [this subchapter] as amended by this Act [see Short Title of 1988 Amendment note above] limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended."

## INITIAL RULEMAKING

Pub. L. 100-430, § 13(b), Sept. 13, 1988, 102 Stat. 1636, provided that: "In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enact-



ment of this Act [Sept. 13, 1988], issue rules to implement title VIII [this subchapter] as amended by this Act [see Short Title of 1988 Amendment note above]. The Secretary shall give public notice and opportunity for comment with respect to such rules."

#### FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under this subchapter, see section 101(b) of Pub. L. 90-284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

#### § 3602. Definitions

As used in this subchapter—

(a) "Secretary" means the Secretary of Housing and Urban Development.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, receivers, and fiduciaries.

(e) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, 3606, or 3617 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person—

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of title 21).

(i) "Aggrieved person" includes any person who—

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 3610 of this title.

(k) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with—

(1) a parent or another person having legal custody of such individual or individuals; or

(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

(l) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

(m) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

(n) "Respondent" means—

(1) the person or other entity accused in a complaint of an unfair housing practice; and

(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 3610(a) of this title.

(o) "Prevailing party" has the same meaning as such term has in section 1988 of this title.

(Pub. L. 90-284, title VIII, § 802, Apr. 11, 1968, 82 Stat. 81; Pub. L. 95-598, title III, § 331, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 100-430, § 5, Sept. 13, 1988, 102 Stat. 1619.)

#### AMENDMENTS

1988—Subsec. (f). Pub. L. 100-430, § 5(a), substituted "3606, or 3617" for "or 3606".

Subsecs. (h) to (o). Pub. L. 100-430, § 5(b), added subsecs. (h) to (o).

1978—Subsec. (d). Pub. L. 95-598 substituted "trustees in cases under title 11" for "trustees in bankruptcy".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95-598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

#### TRANSVESTISM

Section 6(b)(3) of Pub. L. 100-430 provided that: "For the purposes of this Act [see Short Title of 1988 Amendment note set out under section 3601 of this title] as well as chapter 16 of title 29 of the United States Code [29 U.S.C. 701 et seq.], neither the term 'individual with handicaps' nor the term 'handicap' shall apply to an individual solely because that individual is a transvestite."

#### § 3603. Effective dates of certain prohibitions

(a) Application to certain described dwellings

Subject to the provisions of subsection (b) of this section and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

(A) dwellings owned or operated by the Federal Government;

(B) dwellings provided in whole or in part with the aid of loans, advances, grants, or contributions made by the Federal Govern-

ment, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to April 11, 1968;

(C) dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to April 11, 1968: *Provided*, That nothing contained in subparagraphs (B) and (C) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an FDIC or FSLIC institution; and

(D) dwellings provided by the development or the redevelopment of real property purchased, rented, or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

**(b) Exemptions**

Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: *Provided*, That such private individual owner does not own more than three such single-family houses at any one time: *Provided further*, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: *Provided further*, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: *Provided further*, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or

(2) rooms or units in dwellings containing

occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

**(c) Business of selling or renting dwellings defined**

For the purposes of subsection (b) of this section, a person shall be deemed to be in the business of selling or renting dwellings if—

(1) he has, within the preceding twelve months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) he has, within the preceding twelve months, participated as agent, other than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein, or

(3) he is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

(Pub. L. 90-284, title VIII, § 803, Apr. 11, 1968, 82 Stat. 82.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 3604, 3617 of this title.

**§ 3604. Discrimination in the sale or rental of housing and other prohibited practices**

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, sex, handicap, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, handicap, familial status, or national origin.

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwell-

ing to any buyer or renter because of a handicap of—

(A) that buyer or renter;<sup>1</sup>

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes—

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.<sup>2</sup>

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that—

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for

buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

(D) Nothing in this subchapter shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 3610(f)(3) of this title to receive and process complaints or otherwise engage in enforcement activities under this subchapter.

(B) Determinations by a State or a unit of general local government under paragraphs (5)(A) and (B) shall not be conclusive in enforcement proceedings under this subchapter.

(7) As used in this subsection, the term "covered multifamily dwellings" means—

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

(8) Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this subchapter shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subchapter.

(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Pub. L. 90-284, title VIII, § 804, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93-383, title VIII, § 808(b)(1), Aug. 22, 1974, 88 Stat. 729; Pub. L.

<sup>1</sup> So in original. The comma probably should be a semicolon.

<sup>2</sup> So in original. The period probably should be a semicolon.

100-430, §§ 6(a)-(b)(2), (e), 15, Sept. 13, 1988, 102 Stat. 1620, 1622, 1623, 1636.)

#### AMENDMENTS

1988—Pub. L. 100-430, § 6(e), inserted "and other prohibited practices" in section catchline.

Subsecs. (a), (b), Pub. L. 100-430, § 6(b)(2), inserted "familial status," after "sex."

Subsecs. (c) to (e), Pub. L. 100-430, § 6(b)(1), inserted "handicap, familial status," after "sex."

Subsec. (f), Pub. L. 100-430, § 6(a), added subsec. (f).

Subsec. (f)(3)(A), Pub. L. 100-430, § 15, which directed the substitution of "except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted," for the period at the end of subpar. (A) was executed by making the substitution for a semicolon as the probable intent of Congress because subpar. (A) ended with a semicolon, not a period.

1974—Pub. L. 93-383 inserted ", sex" after "religion" wherever appearing in cls. (a) to (e).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3603, 3617 of this title.

#### § 3605. Discrimination in residential real estate-related transactions

##### (a) In general

It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

##### (b) "Residential real estate-related transaction" defined

As used in this section, the term "residential real estate-related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance—

(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or  
(B) secured by residential real estate.

(2) The selling, brokering, or appraising of residential real property.

##### (c) Appraisal exemption

Nothing in this subchapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.

(Pub. L. 90-284, title VIII, § 805, Apr. 11, 1968, 82 Stat. 83; Pub. L. 93-383, title VIII, § 808(b)(2), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100-430, § 6(c), Sept. 13, 1988, 102 Stat. 1622.)

#### AMENDMENTS

1988—Pub. L. 100-430 amended section generally. Prior to amendment, section read as follows: "After

December 31, 1968, it shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given: *Provided*, That nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 3603(b) of this title."

1974—Pub. L. 93-383 inserted ", sex" after "religion".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3617 of this title; title 15 section 1691e.

#### § 3606. Discrimination in the provision of brokerage services

After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, handicap, familial status, or national origin.

(Pub. L. 90-284, title VIII, § 806, Apr. 11, 1968, 82 Stat. 84; Pub. L. 93-383, title VIII, § 808(b)(3), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100-430, § 6(b)(1), Sept. 13, 1988, 102 Stat. 1622.)

#### AMENDMENTS

1988—Pub. L. 100-430 inserted "handicap, familial status," after "sex."

1974—Pub. L. 93-383 inserted ", sex" after "religion".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3617 of this title.

#### § 3607. Religious organization or private club exemption

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society,

or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing—

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections<sup>3</sup> (2)(B) or (C):

<sup>3</sup> So in original. Probably should be "paragraph".

*Provided*, That new occupants of such housing meet the age requirements of subsections<sup>3</sup> (2)(B) or (C); or

(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections<sup>3</sup> (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of title 21.

(Pub. L. 90-284, title VIII, § 807, Apr. 11, 1968, 82 Stat. 84; Pub. L. 100-430, § 6(d), Sept. 13, 1988, 102 Stat. 1622.)

#### CODIFICATION

September 13, 1988, referred to in subsec. (b)(3)(A), was in the original "the date of enactment of this Act", which was translated as meaning the date of enactment of Pub. L. 100-430, which enacted subsec. (b) of this section, to reflect the probable intent of Congress.

#### AMENDMENTS

1988—Pub. L. 100-430 designated existing provisions as subsec. (a) and added subsec. (b).

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3603, 3604 of this title.

#### § 3608. Administration

##### (a) Authority and responsibility

The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

##### (b) Assistant Secretary

The Department of Housing and Urban Development shall be provided an additional Assistant Secretary.

##### (c) Delegation of authority; appointment of administrative law judges; location of conciliation meetings; administrative review

The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this subchapter. The person to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5372, and 7521 of title 5. Insofar as possible, conciliation meetings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe

such rights of appeal from the decisions of his administrative law judges to other administrative law judges or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

- (d) Cooperation of Secretary and executive departments and agencies in administration of housing and urban development programs and activities to further fair housing purposes

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial institutions) in a manner affirmatively to further the purposes of this subchapter and shall cooperate with the Secretary to further such purposes.

(e) Functions of Secretary

The Secretary of Housing and Urban Development shall—

- (1) make studies with respect to the nature and extent of discriminatory housing practices in representative communities, urban, suburban, and rural, throughout the United States;

- (2) publish and disseminate reports, recommendations, and information derived from such studies, including an annual report to the Congress—

(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this subchapter, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

- (i) investigations are not completed as required by section 3610(a)(1)(B) of this title;

- (ii) determinations are not made within the time specified in section 3610(g) of this title; and

- (iii) hearings are not commenced or findings and conclusions are not made as required by section 3612(g) of this title;

- (3) cooperate with and render technical assistance to Federal, State, local, and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices;

- (4) cooperate with and render such technical and other assistance to the Community Relations Service as may be appropriate to further its activities in preventing or eliminating discriminatory housing practices;

- (5) administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter; and

- (6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for,

participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) of this section which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).

(f) Provisions of law applicable to Department programs

The provisions of law and Executive orders to which subsection (e)(6) of this section applies are—

- (1) title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.];

- (2) this subchapter;

- (3) section 794 of title 29;

- (4) the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.];

- (5) the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.];

- (6) section 1982 of this title;

- (7) section 637(a) of title 15;

- (8) section 1735f-5 of title 12;

- (9) section 5309 of this title;

- (10) section 1701u of title 12;

- (11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

- (12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.

(Pub. L. 90-284, title VIII, § 808, Apr. 11, 1968, 82 Stat. 84; Pub. L. 95-251, § 3, Mar. 27, 1978, 92 Stat. 184; Pub. L. 95-454, title VIII, § 801(a)(3)(J), Oct. 13, 1978, 92 Stat. 1222; Pub. L. 100-430, § 7, Sept. 13, 1988, 102 Stat. 1623.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended, known as the Civil Rights Act of 1968, which enacted this chapter, sections 231 to 233, 245, 2101, and 2102 of Title 18, Crimes and Criminal Procedure, and sections 1301 to 1303, 1311, 1312, 1321 to 1326, 1331, and 1341 of Title 25, Indians, amended sections 1973j, 3533, 3535 of this title, and sections 241, 242, and 1153 of Title 18, enacted provisions set out as notes under sections 231 and 245 of Title 18, and repealed provisions set out as notes under section 1360 of Title 28, Judiciary and Judicial Procedure. For complete classification of this Act to the Code, see Tables.

The Civil Rights Act of 1964, referred to in subsec. (f)(1), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (f)(4), is title III of Pub. L. 94-135, Nov. 28, 1975, 78 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Equal Credit Opportunity Act, referred to in subsec. (f)(5), is title VII of Pub. L. 90-321, as added by Pub. L. 93-495, title V, § 503, Oct. 28, 1974, 88 Stat. 1521, as amended, which is classified generally to subchapter IV (§ 1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Executive orders referred to in subsec. (f)(11) are set out as notes under sections of the Code as follows:

Ex. Ord. 11063: 42 U.S.C. 1982,  
Ex. Ord. 11246: 42 U.S.C. 2000e,  
Ex. Ord. 11625: 15 U.S.C. 631,  
Ex. Ord. 12250: 42 U.S.C. 2000d-1,  
Ex. Ord. 12259: 42 U.S.C. 3608, and  
Ex. Ord. 12432: 15 U.S.C. 631.

#### CODIFICATION

The second sentence of subsec. (b) of this section has been omitted as it amended sections 3533(a) and 3535(c) of this title.

#### AMENDMENTS

1988—Subsec. (d). Pub. L. 100-430, § 7(a), inserted "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

Subsec. (e)(2). Pub. L. 100-430, § 7(b)(1)(A), inserted provisions relating to annual report to Congress.

Subsec. (e)(6). Pub. L. 100-430, § 7(b)(1)(B)-(D), added par. (6).

Subsec. (f). Pub. L. 100-430, § 7(b)(2), added subsec. (f).

1978—Subsec. (c). Pub. L. 95-251 substituted "administrative law judges" for "hearing examiners".  
Pub. L. 95-454 substituted "5372" for "5362".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective on the first day of the first applicable pay period beginning on or after the 90th day after Oct. 13, 1978, see section 801(a)(4)(A) of Pub. L. 95-454, set out as an Effective Date note under section 5361 of Title 5, Government Organization and Employees.

#### EX. ORD. NO. 12259. LEADERSHIP AND COORDINATION OF FAIR HOUSING IN FEDERAL PROGRAMS

Ex. Ord. No. 12259, Dec. 31, 1980, 46 F.R. 1253, provided:

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide under the leadership of the Secretary of Housing and Urban Development, in accordance with Section 808 of the Act of April 11, 1968, as amended (sometimes referred to as the Federal Fair Housing Act or as Title VIII of the Civil Rights Act of 1968), 42 U.S.C. 3608, for the administration of all Federal programs and activities relating to housing and urban development in a manner affirmatively to further fair housing throughout the United States, it is hereby ordered as follows:

#### 1-1. ADMINISTRATION OF PROGRAMS AND ACTIVITIES RELATING TO HOUSING AND URBAN DEVELOPMENT

1-101. All programs and activities of Executive agencies, including agencies which exercise regulatory responsibility, relating to housing and urban development shall be administered in a manner affirmatively to further fair housing.

#### 1-2. RESPONSIBILITIES OF EXECUTIVE AGENCIES

1-201. The authority and responsibility for administering the Federal Fair Housing Act is vested in the Secretary of Housing and Urban Development.

1-202. The head of each Executive agency is responsible for ensuring that its programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing as required by Section 808 of the Act of April 11, 1968, as amended (Title VIII of the Civil Rights Act of 1968) [this section], and for cooperating with the Secretary of Housing and Urban Development who shall be responsible for exercising leadership in furthering the purposes of the Act. As used in this Order, the terms "programs and activities" include programs and activities operated, administered or undertaken by the Federal government; grants; loans; contracts; insurance; guarantees; and Federal supervision or exercise of regulatory responsibility.

1-203. In carrying out the responsibilities in this Order the head of each Executive agency shall take appropriate steps to require that all persons or other entities who are applicants for, or participants in, or who are supervised or regulated under, agency programs and activities relating to housing and urban development comply with this Order.

#### 1-3. SPECIFIC RESPONSIBILITIES

1-301. In implementing the responsibilities under Section 1-2 the Secretary of Housing and Urban Development shall:

(a) Develop guidelines for determining the categories of programs and activities relating to housing and urban development which are operated, administered, undertaken, controlled or regulated by Executive agencies.

(b) Promulgate regulations regarding programs and activities of Executive agencies related to housing and urban development which shall:

(1) describe an institutionalized method for analyzing the impact of housing and urban development programs and activities in promoting the goal of fair housing;

(2) describe the responsibilities and obligations in assuring that programs and activities are administered and executed in a manner affirmatively to further fair housing; and

(3) describe the responsibilities and obligations of applicants, participants and other persons and entities involved in housing and urban development programs and activities affirmatively to further the goal of fair housing.

(c) Coordinate Executive agency implementation of the requirements of this Order and issue standards and procedures regarding the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing.

1-302. Upon publication of guidelines by the Secretary of Housing and Urban Development under Section 1-301(a), each Executive agency shall provide the Secretary with a description of all programs and activities relating to housing and urban development within its jurisdiction.

1-303. Within 180 days of the publication of final regulations by the Secretary of Housing and Urban Development under Section 1-301(a) the head of each Executive agency shall publish proposed regulations providing for the administration of programs and activities relating to housing and urban development in a manner affirmatively to further fair housing, consistent with the Secretary of Housing and Urban Development regulations, and with the standards and procedures issued pursuant to Section 1-301(c). As soon as practicable, each Executive agency shall issue its final regulations. All Executive agencies shall formally submit all such proposed and final regulations, and any related issuances or standards to the Secre-



tary of Housing and Urban Development at least 30 days prior to public announcement.

1-304. The Secretary of Housing and Urban Development shall review regulations, standards and actions under Sections 1-302 and 1-303 to ensure conformity with the purposes of the Federal Fair Housing Act [this chapter] and consistency among the operations of the various Executive agencies and shall make any comments with respect thereto on a timely basis.

1-305. In addition to the regulations and guidelines described in Section 1-301, the Secretary of Housing and Urban Development shall implement the Secretary's authority and responsibility for administering the Federal Fair Housing Act [this chapter] by promulgating regulations describing the nature and scope of coverage and the conduct prohibited.

#### 1-4. COOPERATIVE EFFORTS

1-401. The Secretary of Housing and Urban Development shall:

(a) Cooperate with, and render assistance to, the heads of all Executive agencies in the formulation of policies and procedures to implement this Order and to provide information and guidance on the affirmative administration of programs and activities relating to housing and urban development and the protection of rights accorded persons by the Federal Fair Housing Act [this chapter], and

(b) initiate cooperative efforts, including the development of memoranda of understanding between Executive agencies designed to provide for consultation and the coordination of Federal efforts to further fair housing through the affirmative administration of programs and activities relating to housing and urban development.

1-402. In connection with carrying out functions under this Order the Secretary of Housing and Urban Development is authorized to request from any Executive agency such information and assistance deemed necessary. Each agency shall, to the extent permitted by law, furnish such information and assistance to the Secretary.

#### 1-5. ADMINISTRATIVE ENFORCEMENT

1-501. Each Executive agency shall be responsible for enforcement of this Order and, to the extent permitted by law, shall cooperate and provide records, data and documentation in connection with any other agency's investigation of compliance with provisions of this Order.

1-502. If any Executive agency concludes that any person or entity (including any State or local public agency) applying for or participating in, or supervised or regulated under, a program or activity relating to housing and urban development has not complied with this Order or any applicable rule, regulation or procedure issued or adopted pursuant to this Order, it shall endeavor to end and remedy such violation by informal means, including conference, conciliation and persuasion. An Executive agency need not pursue informal resolution of matters where similar efforts made by another Executive agency have been unsuccessful. In event of failure of such informal means, the Executive agency, in conformity with rules, regulations, procedures or policies issued or adopted by it pursuant to Section 1-3 hereof, shall impose such sanctions as may be authorized by law. To the extent authorized by law, such sanctions may include:

(a) cancellation or termination of agreements or contracts with such person, entity, or State or local public agency;

(b) refusal to extend any further aid under any program or activity administered by it and affected by this Order until it is satisfied that the affected person, entity, or State or local public agency will comply with the rules, regulations, and procedures issued or adopted pursuant to this Order;

(c) refusal to grant supervisory or regulatory approval to such person, entity, or State or local public

agency under any program or activity administered by it which is affected by this Order or revoke such approval if previously given;

(d) any other action as may be appropriate under its governing laws.

1-503. Findings of any violation under Section 1-502 shall be promptly reported to the Secretary of Housing and Urban Development. The Secretary of Housing and Urban Development shall forward this information to all other Executive agencies.

1-504. Any Executive agency shall also consider invoking appropriate sanctions against any person or entity where any other Executive department or agency has initiated action against that person or entity pursuant to Section 1-502 of this Order.

1-505. Each Executive agency shall seek the advice of the Secretary of Housing and Urban Development in this regard prior to a decision to initiate actions to invoke sanctions. Each such decision and the reasons therefor, shall be documented and shall be provided to the Secretary of Housing and Urban Development in a timely manner.

#### 1-6. GENERAL PROVISIONS

1-601. Nothing in this Order shall limit the authority of the Attorney General to provide for the coordinated enforcement of nondiscrimination requirements in Federal assistance programs under Executive Order No. 12250 [set out as a note under section 2000d-1 of this title].

1-602. All provisions of regulations, guidelines and procedures proposed to be issued by Executive agencies pursuant to this Order which implement nondiscrimination requirements of laws covered by Executive Order No. 12250 [set out as a note under section 2000d-1 of this title] shall be submitted to the Attorney General for review in accordance with that Executive Order. In addition, the Secretary will consult with the Attorney General regarding all regulations, guidelines and procedures proposed to be issued under Sections 1-301, 1-302 and 1-303 of this Order to assure consistency with coordinated Federal efforts to enforce nondiscrimination requirements in programs of Federal financial assistance pursuant to Executive Order No. 12250.

1-603. Nothing in this Order shall affect the authority and responsibility of the Attorney General to commence civil actions in cases involving a pattern or practice of discrimination or raising an issue of general public importance under the Federal Fair Housing Act [this chapter].

1-604. (a) Part IV and Sections 501 and 503 of Executive Order No. 11063 [set out as a note under section 1982 of this title] are revoked. The activities and functions of the President's Commission on Equal Opportunity in Housing described in that Executive Order shall be performed by the Secretary of Housing and Urban Development.

(b) Sections 101 and 502(a) of Executive Order No. 11063 [set out as a note under section 1982 of this title] are revised to apply to discrimination because of "race, color, religion (creed), sex or national origin." All departments and agencies shall revise regulations, guidelines and procedures issued pursuant to Part II of Executive Order No. 11063 [set out as a note under section 1982 of this title] to reflect this amendment to coverage.

(c) Section 102 of Executive Order No. 11063 [set out as a note under section 1982 of this title] is revised by deleting the term "Housing and Home Finance Agency" and inserting in lieu thereof the term "Department of Housing and Urban Development."

1-605. Nothing in this Order shall affect any requirement imposed under the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.), the Home Mortgage Disclosure Act (12 U.S.C. 2901 et seq.) [12 U.S.C. 2801 et seq.] or the Community Reinvestment Act (12 U.S.C. 2810 et seq.) [12 U.S.C. 2901 et seq.].



## 1-7. REPORT

1-701. The Secretary of Housing and Urban Development shall submit to the President an annual report commenting on the progress the Department of Housing and Urban Development and other Executive agencies have made in carrying out requirements and responsibilities under this Executive Order.

JIMMY CARTER.

## § 3608a. Collection of certain data

## (a) In general

To assess the extent of compliance with Federal fair housing requirements (including the requirements established under title VI of Public Law 88-352 [42 U.S.C. 2000d et seq.] and title VIII of Public Law 90-284 [42 U.S.C. 3601 et seq.]), the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each collect, not less than annually, data on the racial and ethnic characteristics of persons eligible for, assisted, or otherwise benefiting under each community development, housing assistance, and mortgage and loan insurance and guarantee program administered by such Secretary. Such data shall be collected on a building by building basis if the Secretary involved determines such collection to be appropriate.

## (b) Reports to Congress

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each include in the annual report of such Secretary to the Congress a summary and evaluation of the data collected by such Secretary under subsection (a) of this section during the preceding year.

(Pub. L. 100-242, title V, § 562, Feb. 5, 1988, 101 Stat. 1944.)

## REFERENCES IN TEXT

Public Law 88-352, referred to in subsec. (a), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended, known as the Civil Rights Act of 1964, title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

Title VIII of Public Law 90-284, referred to in subsec. (a), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, popularly known as the Fair Housing Act of 1968, which is classified principally to subchapter I (§ 3601 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90-284, popularly known as the Fair Housing Act of 1968, which comprises this subchapter.

## § 3609. Education and conciliation; conferences and consultations; reports

Immediately after April 11, 1968, the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this subchapter. He shall call conferences of persons in the housing in-

dustry and other interested parties to acquaint them with the provisions of this subchapter and his suggested means of implementing it and shall endeavor with their advice to work out programs of voluntary compliance and enforcement. He may pay per diem, travel, and transportation expenses for persons attending such conferences as provided in section 5703 of title 5. He shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with or in place of, the Secretary's enforcement of this subchapter. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

(Pub. L. 90-284, title VIII, § 809, Apr. 11, 1968, 82 Stat. 85.)

## § 3610. Administrative enforcement; preliminary matters

## (a) Complaints and answers

(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint.

(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

## (B) Upon the filing of such a complaint—

(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this subchapter;

(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this subchapter, together with a copy of the original complaint;

(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100

days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

**(b) Investigative report and conciliation**

(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this subchapter.

(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

(i) the names and dates of contacts with witnesses;

(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

(iii) a summary description of other pertinent records;

(iv) a summary of witness statements; and

(v) answers to interrogatories.

(B) A final report under this paragraph may be amended if additional evidence is later discovered.

**(c) Failure to comply with conciliation agreement**

Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 3614 of this title for the enforcement of such agreement.

**(d) Prohibitions and requirements with respect to disclosure of information**

(1) Nothing said or done in the course of conciliation under this subchapter may be made public or used as evidence in a subsequent proceeding under this subchapter without the written consent of the persons concerned.

(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

**(e) Prompt judicial action**

(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this subchapter, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 3612 of this title.

(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any respondent under sections 3614(a) and 3614(c) of this title or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

**(f) Referral for State or local proceedings**

(1) Whenever a complaint alleges a discriminatory housing practice—

(A) within the jurisdiction of a State or local public agency; and

(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

(ii) the procedures followed by such agency;

- (iii) the remedies available to such agency; and
- (iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this subchapter.

(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

(4) During the period which begins on September 13, 1988, and ends 40 months after September 13, 1988, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this subchapter on the day before September 13, 1988, shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on September 13, 1988. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

**(g) Reasonable cause determination and effect**

(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) of this section with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 3612 of this title.

**(B) Such charge—**

(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(ii) shall be based on the final investigative report; and

(iii) need not be limited to the facts or grounds alleged in the complaint filed under subsection (a) of this section.

(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 3614 of this title, instead of issuing such charge.

(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

**(h) Service of copies of charge**

After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 3612(a) of this title and the effect of such an election, to be served—

(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) on each aggrieved person on whose behalf the complaint was filed.

(Pub. L. 90-284, title VIII, § 810, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625.)

**REFERENCES IN TEXT**

The Federal Rules of Civil Procedure, referred to in subsec. (e)(1), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**PRIOR PROVISIONS**

A prior section 3610, Pub. L. 90-284, title VIII, § 810, Apr. 11, 1968, 82 Stat. 85, which related to enforcement, was repealed by Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625.

**EFFECTIVE DATE**

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 3602, 3604, 3608, 3613, 3614 of this title.

**§ 3611. Subpoenas; giving of evidence**

**(a) In general**

The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this subchapter. Such subpoenas and discovery may be ordered to the same extent and subject to

the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

(b) **Witness fees**

Witnesses summoned by a subpoena under this subchapter shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

(c) **Criminal penalties**

(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a) of this section, shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(2) Any person who, with intent thereby to mislead another person in any proceeding under this subchapter—

(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a) of this section;

(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

(Pub. L. 90-284, title VIII, § 811, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1628.)

**PRIOR PROVISIONS**

A prior section 3611, Pub. L. 90-284, title VIII, § 811, Apr. 11, 1968, 82 Stat. 87, which related to evidence, was repealed by Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625.

**EFFECTIVE DATE**

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 3612 of this title.

**§ 3612. Enforcement by Secretary**

(a) **Election of judicial determination**

When a charge is filed under section 3610 of this title, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (c) of this section in lieu of a hearing under subsection (b) of this section. The election must be made not later than 20

days after the receipt by the electing person of service under section 3610(h) of this title or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

(b) **Administrative law judge hearing in absence of election**

If an election is not made under subsection (a) of this section with respect to a charge filed under section 3610 of this title, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 3610 of this title. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

(c) **Rights of parties**

At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 3611 of this title. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

(d) **Expedited discovery and hearing**

(1) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(3) The Secretary shall, not later than 180 days after September 13, 1988, issue rules to implement this subsection.

(e) **Resolution of charge**

Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

(f) **Effect of trial of civil action on administrative proceedings**

An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

(g) **Hearings, findings and conclusions, and order**

(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the

charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

(A) in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(B) in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

(C) in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this subchapter.

(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

#### (h) Review by Secretary; service of final order

(1) The Secretary may review any finding, conclusion, or order issued under subsection (g) of this section. Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent, in the proceeding.

#### (i) Judicial review

(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28.

(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

#### (j) Court enforcement of administrative order upon petition by Secretary

(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

#### (k) Relief which may be granted

(1) Upon the filing of a petition under subsection (i) or (j) of this section, the court may—

(A) grant to the petitioner, or any other party, such temporary relief, restraining

order, or other order as the court deems just and proper;

(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

(C) enforce such order to the extent that such order is affirmed or modified.

(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

(l) Enforcement decree in absence of petition for review

If no petition for review is filed under subsection (i) of this section before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

(1) which is filed by the Secretary under subsection (j) of this section after the end of such day; or

(2) under subsection (m) of this section.

(m) Court enforcement of administrative order upon petition of any person entitled to relief

If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i) of this section, and the Secretary has not sought enforcement of the order under subsection (j) of this section, any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

(n) Entry of decree

The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) of this section shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

(o) Civil action for enforcement when election is made for such civil action

(1) If an election is made under subsection (a) of this section, the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the

court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 3613 of this title. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 3613 of this title shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

(p) Attorney's fees

In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under this section, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5 or by section 2412 of title 28.

(Pub. L. 90-284, title VIII, § 812, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1629.)

#### REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsection (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

#### PRIOR PROVISIONS

A prior section 3612, Pub. L. 90-284, title VIII, § 812, Apr. 11, 1968, 82 Stat. 88, which related to enforcement by private persons, was repealed by Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625.

#### EFFECTIVE DATE

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3608 of this title; title 28 sections 2341, 2342.

#### § 3613. Enforcement by private persons

(a) Civil action

(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this subchapter, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this subchapter was pending with respect to a complaint or charge under this subchapter based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

(2) An aggrieved person may commence a civil action under this subsection whether or not a



complaint has been filed under section 3610(a) of this title and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this subchapter with respect to such charge.

**(b) Appointment of attorney by court**

Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

- (1) appoint an attorney for such person; or
- (2) authorize the commencement or continuation of a civil action under subsection (a) of this section without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

**(c) Relief which may be granted**

(1) In a civil action under subsection (a) of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d) of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate).

(2) In a civil action under subsection (a) of this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

**(d) Effect on certain sales, encumbrances, and rentals**

Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this subchapter.

**(e) Intervention by Attorney General**

Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 3614(e) of this title in a civil action to which such section applies.

(Pub. L. 90-284, title VIII, § 813, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1633.)

**PRIOR PROVISIONS**

A prior section 3613, Pub. L. 90-284, title VIII, § 813, Apr. 11, 1968, 82 Stat. 88, which related to enforcement by Attorney General by bringing civil action requesting preventive relief, was repealed by Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1625.

**EFFECTIVE DATE**

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 3612, 3614 of this title.

**§ 3614. Enforcement by Attorney General**

**(a) Pattern or practice cases**

Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this subchapter, or that any group of persons has been denied any of the rights granted by this subchapter and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

**(b) On referral of discriminatory housing practice or conciliation agreement for enforcement**

(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 3610(g) of this title.

(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 3610(c) of this title.

(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 3610(c) of this title.

**(c) Enforcement of subpoenas**

The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this subchapter, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

**(d) Relief which may be granted in civil actions under subsections (a) and (b)**

(1) In a civil action under subsection (a) or (b) of this section, the court—

(A) may award such preventive relief, including a permanent or temporary injunction,

restraining order, or other order against the person responsible for a violation of this subchapter as is necessary to assure the full enjoyment of the rights granted by this subchapter;

(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

(i) in an amount not exceeding \$50,000, for a first violation; and

(ii) in an amount not exceeding \$100,000, for any subsequent violation.

(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28.

(e) Intervention in civil actions

Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) of this section which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 3613 of this title.

(Pub. L. 90-284, title VIII, § 814, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1634.)

PRIOR PROVISIONS

A prior section 3614, Pub. L. 90-284, title VIII, § 814, Apr. 11, 1968, 82 Stat. 88, which related to expedition of court proceedings under section 3612 or 3613 of this title, was repealed by Pub. L. 98-620, title IV, § 402(40), Nov. 8, 1984, 98 Stat. 3360.

EFFECTIVE DATE

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as an Effective Date of 1988 Amendment note under section 3601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3610, 3613 of this title.

§ 3614a. Rules to implement subchapter

The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this subchapter. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.

(Pub. L. 90-284, title VIII, § 815, as added Pub. L. 100-430, § 8(2), Sept. 13, 1988, 102 Stat. 1635.)

PRIOR PROVISIONS

A prior section 815 of Pub. L. 90-284 was renumbered section 816 and is classified to section 3615 of this title.

EFFECTIVE DATE

Section effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set

out as an Effective Date of 1988 Amendment note under section 3601 of this title.

INITIAL RULEMAKING

Secretary to issue rules to implement this subchapter as amended by Pub. L. 100-430 not later than the 180th day after Sept. 13, 1988, see section 13(b) of Pub. L. 100-430, set out as a note under section 3601 of this title.

§ 3615. Effect on State laws

Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.

(Pub. L. 90-284, title VIII, § 816, formerly § 815, Apr. 11, 1968, 82 Stat. 89; renumbered § 816, Pub. L. 100-430, § 8(1), Sept. 13, 1988, 102 Stat. 1625.)

PRIOR PROVISIONS

A prior section 816 of Pub. L. 90-284 was renumbered section 817 and is classified to section 3616 of this title.

§ 3616. Cooperation with State and local agencies administering fair housing laws: utilization of services and personnel; reimbursement; written agreements; publication in Federal Register

The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this subchapter. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies. All agreements and terminations thereof shall be published in the Federal Register.

(Pub. L. 90-284, title VIII, § 817, formerly § 816, Apr. 11, 1968, 82 Stat. 89; renumbered § 817, Pub. L. 100-430, § 8(1), Sept. 13, 1988, 102 Stat. 1625.)

PRIOR PROVISIONS

A prior section 817 of Pub. L. 90-284 was renumbered section 818 and is classified to section 3617 of this title.

FAIR HOUSING INITIATIVES PROGRAM

Pub. L. 100-242, title V, § 561, Feb. 5, 1988, 101 Stat. 1942, provided that:

"(a) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the 'Secretary') may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out



programs to prevent or eliminate discriminatory housing practices, to develop, implement, carry out, or coordinate—

"(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 [42 U.S.C. 3601 et seq.] (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

"(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

"(b) PROGRAM ADMINISTRATION.—

"(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

"(c) REGULATIONS.—

"(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

"(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section, the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

"(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

"(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

"(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

"(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

"(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

"(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

"(F) any additional information required by the Secretary.

"(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, \$5,000,000 for fiscal year 1988, and \$5,000,000 for fiscal year 1989, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration. Any amount appropriated under this section shall remain available until expended.

"(e) SUNSET.—The demonstration period authorized in this section shall end on September 30, 1989."

§ 3617. Interference, coercion, or intimidation

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

(Pub. L. 90-284, title VIII, § 818, formerly § 817, Apr. 11, 1968, 82 Stat. 89; renumbered § 818 and amended Pub. L. 100-430, §§ 8(1), 10, Sept. 13, 1988, 102 Stat. 1625, 1635.)

PRIOR PROVISIONS

A prior section 818 of Pub. L. 90-284 was renumbered section 819 and is classified to section 3618 of this title.

AMENDMENTS

1988—Pub. L. 100-430 struck out at end "This section may be enforced by appropriate civil action."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3602 of this title.

§ 3618. Authorization of appropriations

There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subchapter.

(Pub. L. 90-284, title VIII, § 819, formerly § 818, Apr. 11, 1968, 82 Stat. 89; renumbered § 819, Pub. L. 100-430, § 8(1), Sept. 13, 1988, 102 Stat. 1625.)

## PRIOR PROVISIONS

A prior section 819 of Pub. L. 90-284 was renumbered section 820 and is classified to section 3619 of this title.

## § 3619. Separability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the remainder of the subchapter and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

(Pub. L. 90-284, title VIII, § 820, formerly § 819, Apr. 11, 1968, 82 Stat. 89; renumbered § 820, Pub. L. 100-430, § 8(1), Sept. 13, 1988, 102 Stat. 1625.)

## SUBCHAPTER II—PREVENTION OF INTIMIDATION

## § 3631. Violations; bodily injury; death; penalties

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(a) any person because of his race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin and because he is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(1) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title), or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more

than \$10,000, or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

(Pub. L. 90-284, title IX, § 901, Apr. 11, 1968, 82 Stat. 89; Pub. L. 93-383, title VIII, § 808(b)(4), Aug. 22, 1974, 88 Stat. 729; Pub. L. 100-430, § 9, Sept. 13, 1988, 102 Stat. 1635.)

## AMENDMENTS

1988—Cls. (a), (b)(1), (c). Pub. L. 100-430 inserted “, handicap (as such term is defined in section 3602 of this title), familial status (as such term is defined in section 3602 of this title),” after “sex”.

1974—Pub. L. 93-383 inserted “, sex” after “religion” wherever appearing in cls. (a), (b)(1), and (c).

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on the 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of this title.

## FEDERALLY PROTECTED ACTIVITIES; PENALTIES

Penalties for violations respecting federally protected activities not applicable to and not affecting activities under fair housing provisions of subchapter I of this chapter, see section 101(b) of Pub. L. 90-284, set out as a note under section 245 of Title 18, Crimes and Criminal Procedure.

## CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

Sec.

3701. Repealed.

## SUBCHAPTER I—OFFICE OF JUSTICE PROGRAMS

3711. Establishment of Office of Justice Programs.

3712. Duties and functions of Assistant Attorney General.

(a) Specific, general and delegated powers.

(b) Annual report to President and Congress.

3713. Omitted.

## SUBCHAPTER II—NATIONAL INSTITUTE OF JUSTICE

3721. Statement of purpose.

3722. National Institute of Justice.

(a) Establishment; general authority of Attorney General over Institute.

(b) Director of Institute; appointment by President; authority; restrictions.

(c) Duties and functions.

(d) Criminal and civil justice research.

3723. Authority for 100 per centum grants.

3724. Repealed.

## SUBCHAPTER III—BUREAU OF JUSTICE STATISTICS

3731. Statement of purpose.

3732. Bureau of Justice Statistics.

(a) Establishment.

(b) Appointment of Director; experience; authority; restrictions.

(c) Duties and functions of Bureau.

(d) Justice statistical collection, analysis, and dissemination.

(e) Furnishing of information, data, or reports by Federal agencies.

(f) Consultation with representatives of State and local government and judiciary.

"(c) **EFFECTIVE DATE.**—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act (probably should be Department of Housing and Urban Development Reform Act of 1989) for projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a). The Secretary may revoke the responsibility delegated in the preceding sentence if the Secretary determines that a housing credit agency has failed to properly implement such guidelines.

"(d) **APPLICABILITY.**—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act (probably should be Department of Housing and Urban Development Reform Act of 1989, enacted Dec. 15, 1989)."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1439, 1485, 4852d, 12742, 12774 of this title.

#### § 3546. Use of domestic products

##### (a) Prohibition against fraudulent use of "Made in America" labels

A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

##### (b) Report

The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

##### (c) "Domestic product" defined

For the purposes of this section, the term "domestic product" means a product—

- (1) that is manufactured or produced in the United States; and
- (2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

(Pub. L. 102-550, title IX, § 920, Oct. 28, 1992, 106 Stat. 3883.)

#### CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1992, and not as part of the Department of Housing and Urban Development Act which comprises this chapter.

### CHAPTER 45—FAIR HOUSING

#### SUBCHAPTER I—GENERALLY

Sec.

#### 3616a. Fair housing initiatives program.

- (a) In general.
- (b) Private enforcement initiatives.
- (c) Funding of fair housing organizations.
- (d) Education and outreach.
- (e) Program administration.
- (f) Regulations.
- (g) Authorization of appropriations.

Sec.

- (h) Qualified fair housing enforcement organization.
- (i) Prohibition on use of funds.
- (j) Reporting requirements.

### SUBCHAPTER I—GENERALLY

#### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1437l, 1437v, 1437w, 1437aaa-1, 1437aaa-2, 3535, 3608a, 3616a, 4621, 5304, 5306, 5307, 6727, 8013, 11386, 11394, 12181, 12754, 12872, 12873, 12892, 12893, 12899b, 12899c, 13603 of this title; title 12 sections 1701q, 1708, 4545; title 15 sections 1691e, 5804; title 23 section 117; title 49 App. sections 1604, 2208.

#### § 3607. Religious organization or private club exemption

##### REGULATIONS

Pub. L. 102-550, title IX, § 919, Oct. 28, 1992, 106 Stat. 3883, provided that: "The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act [Oct. 28, 1992], make rules defining what are 'significant facilities and services especially designed to meet the physical or social needs of older persons' required under section 807(b)(2) of the Fair Housing Act [42 U.S.C. 3607(b)(2)] to meet the definition of the term 'housing for older persons' in such section."

#### § 3608a. Collection of certain data

##### REFERENCES IN TEXT

Title VIII of Public Law 90-284, referred to in subsec. (a), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, as amended, known as the Fair Housing Act, which is classified principally to subchapter I (§ 3601 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

#### § 3610. Administrative enforcement; preliminary matters

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3602, 3604, 3608, 3613, 3614, 3616a of this title.

#### § 3616. Cooperation with State and local agencies administering fair housing laws; utilization of services and personnel; reimbursement; written agreements; publication in Federal Register

##### FAIR HOUSING INITIATIVES PROGRAM

Pub. L. 100-242, title V, § 561, Feb. 5, 1988, 101 Stat. 1942, as amended, which established a demonstration program on fair housing initiatives and was formerly set out as a note under this section, was transferred to section 3616a of this title.

#### § 3616a. Fair housing initiatives program

##### (a) In general

The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") may make grants to, or (to the extent of amounts provided in appropriation Acts) enter into contracts or cooperative agreements with, State or local governments or their agencies, public or private nonprofit organizations or institutions, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory

out, or coordinate—

(1) programs or activities designed to obtain enforcement of the rights granted by title VIII of the Act of April 11, 1968 [42 U.S.C. 3601 et seq.] (commonly referred to as the Civil Rights Act of 1968), or by State or local laws that provide rights and remedies for alleged discriminatory housing practices that are substantially equivalent to the rights and remedies provided in such title VIII, through such appropriate judicial or administrative proceedings (including informal methods of conference, conciliation, and persuasion) as are available therefor; and

(2) education and outreach programs designed to inform the public concerning rights and obligations under the laws referred to in paragraph (1).

**(b) Private enforcement initiatives**

**(1) In general**

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multi-year contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

**(2) Activities**

The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

(A) carry out testing and other investigative activities in accordance with subsection (b)(1) of this section, including building the capacity for housing investigative activities in unserved or underserved areas;

(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.];

(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

(E) provide funds for the costs and expenses of litigation, including expert witness fees.

**(1) In general**

The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

**(2) Capacity enhancement**

The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

**(d) Education and outreach**

**(1) In general**

The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

(A) public service announcements, both audio and video;

(B) television, radio and print advertisements;

(C) posters; and

(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) of this section for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

## (2) Regional and local programs

The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968 [42 U.S.C. 3601 et seq.], State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act [42 U.S.C. 3610(f)], or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

## (3) Community-based programs

The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.

## (e) Program administration

(1) Not less than 30 days before providing a grant or entering into any contract or cooperative agreement to carry out activities authorized by this section, the Secretary shall submit notification of such proposed grant, contract, or cooperative agreement (including a description of the geographical distribution of such contracts) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) The Secretary shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a quarterly report that summarizes the activities funded under this section and describes the geographical distribution of grants, contracts, or cooperative agreements funded under this section.

## (f) Regulations

(1) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this section.

(2) The Secretary shall, for use during the demonstration authorized in this section, establish guidelines for testing activities funded under the private enforcement initiative of the fair housing initiatives program. The purpose of such guidelines shall be to ensure that investigations in support of fair housing enforcement efforts described in subsection (a)(1) of this section shall develop credible and objective evidence of discriminatory housing practices. Such guidelines shall apply only to activities funded under this section, shall not be construed to limit or otherwise restrict the use of facts secured through testing not funded under this section in any legal proceeding under Federal fair housing laws, and shall not be used to restrict individuals or entities, including those

participating in the fair housing initiatives program, from pursuing any right or remedy guaranteed by Federal law. Not later than 6 months after the end of the demonstration period authorized in this section,<sup>1</sup> the Secretary shall submit to Congress the evaluation of the Secretary of the effectiveness of such guidelines in achieving the purposes of this section.

(3) Such regulations shall include provisions governing applications for assistance under this section, and shall require each such application to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant, together with the estimated costs and schedule for completion of such activities;

(B) a description of the experience of the applicant in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(C) available information, including studies made by or available to the applicant, indicating the nature and extent of discriminatory housing practices occurring in the general location where the applicant proposes to conduct its assisted activities, and the relationship of such activities to such practices;

(D) an estimate of such other public or private resources as may be available to assist the proposed activities;

(E) a description of proposed procedures to be used by the applicant for monitoring conduct and evaluating results of the proposed activities; and

(F) any additional information required by the Secretary.

(4) Regulations issued under this subsection shall not become effective prior to the expiration of 90 days after the Secretary transmits such regulations, in the form such regulations are intended to be published, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(5) The Secretary shall not obligate or expend any amount under this section before the effective date of the regulations required under this subsection.

## (g) Authorization of appropriations

There are authorized to be appropriated to carry out the provisions of this section,<sup>2</sup> \$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—

(1) not less than \$3,820,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b) of this section, divided equally between activities specified under subsection (b)(1) of this section and those specified under subsection (b)(2) of this section;

(2) not less than \$2,230,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement or-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The comma probably should not appear.

ganizations authorized under subsection (c)(1) of this section;

(3) not less than \$2,010,000 for fiscal year 1993 and \$4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2) of this section; and

(4) not less than \$2,540,000 for fiscal year 1993 and \$5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d) of this section, to be divided equally between activities specified under subsection (d)(1) of this section and those specified under subsections (d)(2) and (d)(3) of this section.

Any amount appropriated under this section shall remain available until expended.

**(h) Qualified fair housing enforcement organization**

(1) The term "qualified fair housing enforcement organization" means any organization that—

(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

(2) The term "fair housing enforcement organization" means any organization that—

(A) meets the requirements specified in paragraph (1)(A);

(B) is currently engaged in the activities specified in paragraph (1)(B);

(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

(D) for purposes of funding under subsection (b) of this section, has at least 1 year of experience in the activities specified in paragraph (1)(B).

**(i) Prohibition on use of funds**

None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

**(j) Reporting requirements**

Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

(1) a description of the progress made in accomplishing the objectives of this section;

(2) a summary of all the private enforcement activities carried out under this section

and the use of such funds during the preceding fiscal year;

(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.

(Pub. L. 100-242, title V, § 561, Feb. 5, 1988, 101 Stat. 1942; Pub. L. 101-625, title IX, § 953, Nov. 28, 1990, 104 Stat. 4419; Pub. L. 102-550, title IX, § 905(b), Oct. 28, 1992, 106 Stat. 3869.)

**REFERENCES IN TEXT**

The Civil Rights Act of 1968, referred to in subsecs. (a)(1), (b)(1), (2)(C), (c)(1), and (d), is Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 73, as amended. Title VIII of the Act, known as the Fair Housing Act, is classified principally to subchapter I (§ 3601 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title notes set out under sections 2000a and 3601 of this title and Tables.

The Fair Housing Act Amendments of 1988, referred to in subsec. (d)(1), probably means the Fair Housing Amendments Act of 1988, Pub. L. 100-430, Sept. 13, 1988, 102 Stat. 1619, as amended. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 3601 of this title and Tables.

The phrase "Not later than 6 months after the end of the demonstration period authorized in this section", referred to in subsec. (f)(2), probably means the end of the demonstration period pursuant to former subsec. (e) of this section, which provided that such period was to end Sept. 30, 1992. However, subsec. (e) was redesignated (h) and struck out by Pub. L. 102-550. See 1992 Amendment notes below.

**CODIFICATION**

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of title VIII of Pub. L. 90-284, known as the Fair Housing Act, which comprises this subchapter.

Section was formerly set out as a note under section 3616 of this title.

**AMENDMENTS**

1992—Subsecs. (b) to (f), Pub. L. 102-550, § 905(b)(1), (2), added subsecs. (b) to (d) and redesignated former subsecs. (b) and (c) as (e) and (f), respectively.

Subsec. (g), Pub. L. 102-550, § 905(b)(1), (3), redesignated subsec. (d) as (g) and, in first sentence, substituted "\$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—" and pars. (1) to (4) for "including any program evaluations, \$6,000,000 for fiscal year 1991 and \$6,300,000 for fiscal year 1992, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration."

Subsec. (h), Pub. L. 102-550, § 905(b)(4), added subsec. (h) and struck out former subsec. (h) which provided that the demonstration period authorized by this section would end Sept. 30, 1992.

Pub. L. 102-550, § 905(b)(1), redesignated subsec. (e) as (h).

Subsecs. (i), (j), Pub. L. 102-550, § 905(b)(4), added subsecs. (i) and (j).

1990—Subsec. (d), Pub. L. 101-625, § 953(a), amended first sentence generally. Prior to amendment, first sentence read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, \$5,000,000 for

fiscal year 1988, and \$5,000,000 for fiscal year 1989, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration."

Subsec. (e). Pub. L. 101-625, § 953(b), substituted "1992" for "1989".

#### CONGRESSIONAL FINDINGS

Section 905(a) of Pub. L. 102-550 provided that: "The Congress finds that—

"(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

"(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988 [probably should be the Fair Housing Amendments Act of 1988, Pub. L. 100-430, see Short Title of 1988 Amendment note set out under section 3601 of this title], to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

"(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 [Pub. L. 101-73, see Short Title of 1989 Amendment note set out under 12 U.S.C. 1811], the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act [probably should be the Home Mortgage Disclosure Act of 1975; 12 U.S.C. 2801 et seq.] to provide increased information on the mortgage lending patterns of financial institutions;

"(4) in the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

"(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

"(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least one of the areas of sales and rental agents;

"(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987 [Pub. L. 100-242, see Short Title of 1988 Amendment note under section 5301 of this title];

"(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

"(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3535 of this title.

### CHAPTER 46—JUSTICE SYSTEM IMPROVEMENT

#### SUBCHAPTER V—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

Sec.

3750a.

Grant authorization.

(a) Purpose.

(b) Grants.

Sec.

3750b.

Application.

(a) Submission.

(b) Content.

3750c.

Award of grants.

(a) In general.

(b) Grant amounts.

(c) Multiple committees.

(d) Renewal of grants.

3750d.

Authorization of appropriations.

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3759.

Improvement of criminal justice records.

(a) Percentage allocation of funds.

(b) Includible improvements.

(c) Guidelines.

(d) Expenditures unwarranted in light of quality of criminal justice records.

#### PART B—DISCRETIONARY GRANTS

##### SUBPART 1—GRANTS TO PUBLIC AND PRIVATE ENTITIES

3760.

Purposes.

3761.

Allocation of funds for grants.

3762.

Limitation on use of discretionary grant funds.

##### SUBPART 2—GRANTS TO PUBLIC AGENCIES

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Correctional options grants.

(a) Authority to make grants.

(b) Selection of grantees.

(c) Consultations.

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Allocation of funds; administrative provisions.

(a) Allocation of funds.

(b) Limit on grant share of cost.

(c) Rules; report; request for applications.

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Application requirements.

3764.

Period of award.

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3796aa.

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Description of grant program.

3796aa-2.

Applications to receive grants.

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Review of applications.

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Allocation and distribution of funds under formula grants.

(a) States.

(b) Local governments.

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Expenditure of grants; records.

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(b) Administration.

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3796aa-8.

Definitions.

#### SUBCHAPTER XII-C—RURAL DRUG ENFORCEMENT ASSISTANCE

3796bb.

Rural drug enforcement assistance.

3796bb-1.

Other requirements.



receive and process complaints or otherwise engage in enforcement activities under this title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

State and local governments.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

Safety.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others."

42 USC 3606, 3604.

(b) **ADDITIONAL PROTECTED CLASSES.**—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

42 USC 3602 note.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

(c) **DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**—Section 805 is amended to read as follows:

**"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS**

42 USC 3605.

**"SEC. 805. (a) IN GENERAL.**—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

**"(b) DEFINITION.**—As used in this section, the term 'residential real estate-related transaction' means any of the following:

**"(1) The making or purchasing of loans or providing other financial assistance—**

**"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or**

**"(B) secured by residential real estate.**

**"(2) The selling, brokering, or appraising of residential real property.**

**"(c) APPRAISAL EXEMPTION.**—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status."

42 USC 3607.

**(d) ADDITIONAL EXEMPTION.**—Section 807 is amended—



(1) by inserting "(a)" after "Sec. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)."

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES".

#### SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development".

Regulations.  
Aged persons.

Aged persons.

Drugs and drug  
abuse.

42 USC 3604.

42 USC 3608.

## **State Fair Housing Laws**

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Low rent housing, selection of tenants, see § 469.022.  
Public works contracts, see § 181.59.  
Redevelopment projects, use, see § 469.109 et seq.

### United States Code Annotated

Deprivation of rights under color of law, offense, civil action, see 18 U.S.C.A. § 242.; 42 U.S.C.A. § 1983.  
Due process and equal protection clauses, see U.S.C.A.Const. Amend. 14, § 1.  
Equal rights under the law, general provision, see 42 U.S.C.A. § 1981.  
Federally assisted programs generally, see 42 U.S.C.A. § 2000d et seq.  
Housing, equal opportunities, see 42 U.S.C.A. § 1982.  
Public contracts, equal opportunities, see 42 U.S.C.A. § 2000e et seq.

### 363.01. Definitions

**Subdivision 1. Terms.** For the purposes of this chapter, the words defined in this section have the meanings ascribed to them.

**Subd. 2. Repealed by Laws 1965, c. 586, § 6.**

**Subd. 3. Age.** The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority except for section 363.03, subdivision 5, which shall be deemed to protect any individual over the age of 25 years.

**Subd. 4. Board.** "Board" means the state board of human rights.

**Subd. 5. Business.** The term "business" includes any partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver, but excludes the state and its departments, agencies, and political subdivisions.

**Subd. 6. Charging party.** "Charging party" means a person filing a charge with the commissioner or the commissioner's designated agent pursuant to section 363.06, subdivision 1.

**Subd. 7. Closed case file.** "Closed case file" means a file containing human rights investigative data in which an order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, and the time for any reconsideration of or appeal from the order or decision has expired.

**Subd. 8. Commissioner.** "Commissioner" means the commissioner of human rights.

**Subd. 9. Complainant.** "Complainant" means the commissioner of human rights after issuing a complaint pursuant to section 363.06.

**Subd. 10. Confidential, private, and public data on individuals and protected nonpublic data not on individuals.** "Confidential," "private," "public data on individuals," "protected nonpublic data not on individuals," and any other terms concerning the availability of human rights investigative data have the meanings given them by section 13.02 of the Minnesota government data practices act.

**Subd. 11. Repealed by Laws 1967, c. 897, § 29, eff. July 1, 1967.**

**Subd. 12. Department.** "Department" means the department of human rights.

**Subd. 13. Disability.** "Disability" means any condition or characteristic that renders a person a disabled person. A disabled person is any person who (1) has a physical, sensory, or mental impairment which materially limits one or more major life activities; (2) has a record of such an impairment; or (3) is regarded as having such an impairment.

**Subd. 14. Discriminate.** The term "discriminate" includes segregate or separate and, for purposes of discrimination based on sex, it includes sexual harassment.

**Subd. 15. Educational institutions.** "Educational institution" means a public or private institution and includes an academy, college, elementary or secondary school, extension course, kindergarten, nursery, school system and a business, nursing, professional, secretarial, technical, vocational school; and includes an agent of an education institution.

**Subd. 16. Employee.** "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

**Subd. 17. Employer.** "Employer" means a person who has one or more employees.

**Subd. 18. Employment agency.** "Employment agency" means a person or persons who, or an agency which regularly undertakes, with or without compensation, to procure employees or opportunities for employment.

**Subd. 19. Familial status.** "Familial status" means the condition of one or more minors being domiciled with (a) their parent or parents or the minor's legal guardian or (b) the designee of the parent or parents or guardian with the written permission of the parent or parents or guardian. The protections afforded against discrimination on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

**Subd. 20. Hearing examiners.** "Hearing examiners" are persons admitted to practice law who are selected by the commissioner to conduct hearings.

**Subd. 21. Human rights investigative data.** "Human rights investigative data" means written documents issued or gathered by the department for the purpose of investigating and prosecuting alleged or suspected discrimination.

**Subd. 22. Labor organization.** "Labor organization" means any organization that exists wholly or partly for one or more of the following purposes:

- (1) Collective bargaining;
- (2) Dealing with employers concerning grievances, terms or conditions of employment; or
- (3) Mutual aid or protection of employees.

**Subd. 23. Local commission.** "Local commission" means an agency of a city, county, or group of counties created pursuant to law, resolution of a county board, city charter, or municipal ordinance for the purpose of dealing

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with discrimination on the basis or race, color, creed, religion, national origin, sex, age, disability, marital status, status with regard to public assistance, or familial status.

**Subd. 24. Marital status.** "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

**Subd. 25. National origin.** "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

**Subd. 26. Open case file.** "Open case file" means a file containing human rights investigative data in which no order or other decision resolving the alleged or suspected discrimination has been made or issued by the commissioner, a hearing officer, or a court, or a file in which an order or other decision has been issued but the time for any reconsideration or appeal of the order or decision has either not yet expired or the reconsideration or appeal is then pending.

**Subd. 27. Party in interest.** "Party in interest" means the complainant, respondent, commissioner or board member.

**Subd. 28. Person.** "Person" includes partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, receiver, and the state and its departments, agencies, and political subdivisions.

**Subd. 29. Physical access.** "Physical access" means (1) the absence of physical obstacles that limit a disabled person's opportunity for full and equal use of or benefit from goods, services, and privileges; or, when necessary, (2) the use of methods to overcome the discriminatory effect of physical obstacles. The methods may include redesign of equipment, assignment of aides, or use of alternate accessible locations.

**Subd. 30.** Repealed by Laws 1989, c. 280, § 22.

**Subd. 31. Program access.** "Program access" means (1) the use of auxiliary aids or services to ensure full and equal use of or benefit from goods, services, and privileges; and (2) the absence of criteria or methods of administration that directly, indirectly, or through contractual or other arrangements, have the effect of subjecting qualified disabled persons to discrimination on the basis of disability, or have the effect of defeating or impairing the accomplishment of the objectives of the program.

**Subd. 32.** Repealed by Laws 1989, c. 280, § 22.

**Subd. 33. Public accommodations.** "Place of public accommodation" means a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.

**Subd. 34. Public services.** "Public service" means any public facility, department, agency, board or commission, owned, operated or managed by or on behalf of the state of Minnesota, or any subdivision thereof, including any county, city, town, township, or independent district in the state.

**Subd. 35. Qualified disabled person.** "Qualified disabled person" means:

(1) with respect to employment, a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question; and

(2) with respect to services and programs, a disabled person who, with physical and program access, meets the essential eligibility criteria required of all applicants for the program or service in question.

For the purposes of this subdivision, "disability" excludes any condition resulting from alcohol or drug abuse which prevents a person from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of others.

If a respondent contends that the person is not a qualified disabled person, the burden is on the respondent to prove that it was reasonable to conclude the disabled person, with reasonable accommodation, could not have met the requirements of the job or that the selected person was demonstrably better able to perform the job.

**Subd. 36. Real estate broker or salesperson.** "Real estate broker or salesperson" means, respectively, a real estate broker as defined by section 82.17, subdivision 4, and a real estate salesperson as defined by section 82.17, subdivision 5.

**Subd. 37. Real property.** "Real property" includes real estate, lands, tenements, and hereditaments, corporeal and incorporeal.

**Subd. 38. Religious or denominational educational institutions.** "Religious or denominational educational institution" means an educational institution which is operated, supervised, controlled or sustained primarily by a religious or denominational organization, or is one which is stated by the parent church body to be and is, in fact, officially related to that church by being represented on the board of the institution, and by providing substantial financial assistance and which has certified, in writing, to the board that it is a religious or denominational educational institution.

**Subd. 39. Respondent.** "Respondent" means a person against whom a complaint has been filed or issued.

**Subd. 40. Sex.** "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

**Subd. 41. Sexual harassment.** "Sexual harassment" includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other verbal or physical conduct or communication of a sexual nature when:

(1) submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment, public accommodations or public services, education, or housing;

(2) submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment, public accommodations or public services, education, or housing; or

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(3) that conduct or communication has the purpose or effect of substantially interfering with an individual's employment, public accommodations or public services, education, or housing, or creating an intimidating, hostile, or offensive employment, public accommodations, public services, educational, or housing environment; and in the case of employment, the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action.

**Subd. 42. Status with regard to public assistance.** "Status with regard to public assistance" means the condition of being a recipient of federal, state or local assistance, including medical assistance, or of being a tenant receiving federal, state or local subsidies, including rental assistance or rent supplements.

**Subd. 43. Unfair discriminatory practices.** "Unfair discriminatory practice" means any act described in section 363.03.

Laws 1955, c. 516, § 3. Amended by Laws 1961, c. 428, §§ 1 to 3; Laws 1967, c. 897, §§ 1 to 9, eff. July 1, 1967; Laws 1969, c. 975, §§ 1, 2, eff. June 7, 1969; Laws 1973, c. 123, art. 5, § 7; Laws 1973, c. 729, § 1; Laws 1976, c. 2, § 130; Laws 1977, c. 351, § 1; Laws 1977, c. 408, § 1, eff. June 3, 1977; Laws 1980, c. 531, §§ 1, 2; Laws 1982, c. 492, § 1, eff. March 20, 1982; Laws 1982, c. 619, §§ 2, 3, eff. March 24, 1982; Laws 1983, c. 276, §§ 1 to 4, eff. June 7, 1983; Laws 1985, 1st Sp., c. 13, §§ 320 to 324; Laws 1986, c. 444; Laws 1987, c. 23, § 1; Laws 1987, c. 282, § 2; Laws 1988, c. 660, § 1; Laws 1989, c. 280, §§ 1 to 3; Laws 1989, c. 329, art. 9, § 26; Laws 1989, c. 335, art. 1, § 243; Laws 1990, c. 567, §§ 1, 10.

### Historical and Statutory Notes

The 1961 amendment substituted "State Commission against Discrimination" for "State Fair Employment Practices Commission" in the definition of "Commission", now "board"; substituted "discriminatory" for "employment" in the definition of "unfair discriminatory practices"; and added the definitions of "publicly assisted housing" (deleted by Laws 1967), "real property" and "real estate broker or salesman."

Laws 1961, c. 428, § 18 provides that this act as it relates to housing becomes effective December 31, 1962.

Laws 1965, c. 586 repealed subd. 2, which defined "board" as the board of review established under the chapter.

Laws 1967, c. 897, §§ 1 to 9 substituted the definition of "board" for "commission"; and added the definitions of "commissioner", "employer", "party in interest", "hearing examiners", "public accommodations", "public services", "educational institutions", and "religious or denominational educational institutions."

Laws 1967, c. 897, § 29 repealed subd. 11, which defined "publicly assisted housing."

The 1969 amendment inserted the definitions of "charging party" and "complainant".

Laws 1973, c. 123, art. 5, § 7 was an instruction to the revisor of statutes to make terminology changes reflecting the simplification of statutes relating to villages, boroughs and cities without home rule charters.

Laws 1973, c. 729, § 1, added the definitions of "local commission", "disability", "department", and "status with regard to public assistance".

The 1976 amendment twice substituted "82.17" for "82.01" in the definition of "Real estate broker or salesperson."

Laws 1977, c. 351, added the definition of "age".

Laws 1977, c. 408, added the definition of "sex".

The 1980 amendment added "or familial status" to the end of definition of "local commission" and inserted the definitions of "elderly person" (repealed by Laws 1989, c. 280, § 22) and "familial status".

Laws 1980, c. 531, § 11, provides that this act is effective April 12, 1980, "except that this act shall not apply to adult-only residential buildings until either all the written leases in effect on the effective date of this act pertaining to rental units within these buildings have, by their terms, expired, or until two years from

**Pages 184-187 are not applicable and therefore are not included.**



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### Note 15

#### 15. Public accommodations

Application of Minnesota Human Rights Act to prohibit organization found to be a place of public accommodation from excluding women from equal benefits did not violate organization's freedom of association. *U. S. Jaycees v. McClure*, D.C.1982, 534 F.Supp. 766, reversed 709 F.2d 1560, reversed on other grounds 104 S.Ct. 3244, 468 U.S. 609, 82 L.Ed.2d 462.

Minnesota Human Rights Act providing that it is unfair discriminatory practice to deny any person full and equal enjoyment of goods and

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accommodations of place of public accommodation because of sex and statute defining place of public accommodation, as construed by Minnesota Supreme Court, to prohibit organization found to be a place of public accommodation from forbidding women the same membership status as men, was not unconstitutionally vague or overbroad. *Id.*

United States Jaycees is a "place of public accommodation" within the Minnesota Human Rights Act. *U. S. Jaycees v. McClure*, 1981, 305 N.W.2d 764.

## 363.02. Exemptions

**Subdivision 1. Employment.** The provisions of section 363.03, subdivision 1, shall not apply to:

- (1) The employment of any individual
  - (a) by the individual's parent, grandparent, spouse, child, or grandchild, or
  - (b) in the domestic service of any person;
- (2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment;
- (3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice;
- (4) The operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of this chapter;
- (5) With respect to age discrimination, a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees;
- (6) A restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.
- (7) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363.03, subdivision 1 or 5.
- (8) It is not an unfair employment practice for an employer, employment agency, or labor organization:
  - (i) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided

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(a) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job, except that a law enforcement agency filling a peace officer position or part-time peace officer position may require or request an applicant to undergo psychological evaluation before a job offer is made provided that the psychological evaluation is for those job-related abilities set forth by the board of peace officer standards and training for psychological evaluations and is otherwise lawful;

(b) that the examination tests only for essential job-related abilities; and

(c) that the examination except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; or

(ii) with the consent of the employee, after employment has commenced, to obtain additional medical information for the purposes of assessing continuing ability to perform the job or employee health insurance eligibility; for purposes mandated by local, state, or federal law; for purposes of assessing the need to reasonably accommodate an employee or obtaining information to determine eligibility for the second injury fund under chapter 176; or pursuant to sections 181.950 to 181.957; or other legitimate business reason not otherwise prohibited by law;

(iii) to administer preemployment tests, provided that the tests (a) measure only essential job-related abilities, (b) are required of all applicants for the same position regardless of disability except for tests authorized under chapter 176, and (c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills except when those skills are the factors that the tests purport to measure; or

(iv) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(v) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

**Subd. 2. Housing.** (1) The provisions of section 363.03, subdivision 2, shall not apply to:

(a) rooms in a temporary or permanent residence home run by a nonprofit organization, if the discrimination is by sex; or

(b) the rental by a resident owner or occupier of a one-family accommodation of a room or rooms in the accommodation to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Except as provided elsewhere in this chapter or other state or federal law, no person or group of persons selling, renting, or leasing property is required to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this chapter be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any

disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of the lease, agreement, or contract.

(2) The provisions of section 363.03, subdivision 2, prohibiting discrimination because of familial status shall not be construed to defeat the applicability of any local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit and shall not apply to:

(a) any owner occupied building containing four or fewer dwelling units; or

(b) housing for elderly persons. "Housing for elderly persons" means housing:

(i) provided under any state or federal program that the commissioner determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

(ii) intended for, and solely occupied by, persons 62 years of age or older; or

(iii) intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that:

(A) there are significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of these facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons;

(B) at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

(C) there is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing does not fail to meet the requirements for housing for elderly persons by reason of persons residing in the housing as of August 1, 1989, who do not meet the age requirements of clauses (b)(ii) and (b)(iii) if new occupants of the housing meet the age requirements of clause (b)(ii) or (b)(iii). In addition, housing does not fail to meet the requirements by reason of unoccupied units if unoccupied units are reserved for occupancy by persons who meet the age requirements of clause (b)(ii) or (b)(iii).

**Subd. 2a. Manufactured home parks.** A park owner must comply with section 327C.02, subdivision 2, 327C.05, or 327C.07, subdivision 4, when adopting or amending a rule concerning the permitted familial status of residents or of buyers of homes offered for in park sale.

**Subd. 2b. Eviction due to familial status.** The provisions of section 363.03, subdivision 2, prohibiting discrimination because of familial status, do not apply to eviction from, or denial of continuing tenancy in, dwelling units exempt under this section, provided that (1) one year has elapsed from the commencement of the familial status and (2) six months prior written notice

has been given to the tenant, unless the eviction or denial of continuing tenancy is for nonpayment of rent, damage to the premises, disturbance of other tenants, or other breach of the lease.

**Subd. 3. Education.** (a) It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion. The provisions of section 363.03, subdivision 5, relating to sex, shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll. Nothing in this chapter shall prohibit an educational institution from using academic qualifications or achievements as criteria for admission or requiring from applicants information which relates to academic qualifications or achievements.

(b) Notwithstanding any other provisions of this chapter or any law to the contrary, it is not an unfair discriminatory practice for an educational institution or a public service to operate or sponsor separate athletic teams and activities for members of each sex or to restrict membership on an athletic team to participants of one sex, if this separation or restriction meets the requirements of section 126.21.

(c) The department of human rights shall investigate all charges alleging sex discrimination in athletic programs in educational institutions and public services pursuant to the standards and requirements of section 126.21 and the procedures enumerated in this chapter.

(d) Nothing in this chapter restricts or limits the rights, procedures, and remedies available under section 504 of the Rehabilitation Act of 1973, United States Code, title 29, section 794, or the Education of the Handicapped Act, United States Code, title 20, sections 1401 and following.

**Subd. 4. Public accommodations.** The provisions of section 363.03, subdivision 3, relating to sex, shall not apply to such facilities as restrooms, locker rooms, and other similar places.

**Subd. 5. Disability.** Nothing in this chapter shall be construed to prohibit any program, service, facility, or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate or accommodate that person. It is a defense to a complaint or action brought under the employment provisions of this chapter that the person bringing the complaint or action has a disability which in the circumstances and even with reasonable accommodation, as defined in section 363.03, subdivision 1, clause (6), poses a serious threat to the health or safety of the disabled person or others. The burden of proving this defense is upon the respondent.

**Subd. 6. Age.** By law or published retirement policy, a mandatory retirement age may be established without being a violation of this chapter if it is established consistent with section 181.81. Nothing in this chapter nor in section 181.81 shall prohibit employee pension and retirement plans from granting pension credit to employees over the age of 65 at a lesser rate than is granted to other employees, provided that in no event may an employee's accumulated pension credits be reduced by continued employment, and further provided that no other state or federal law is violated by the reduced

rate of pension credit accrual. Nothing in this chapter shall be construed to prohibit the establishment of differential privileges, benefits, services, or facilities for persons of designated ages if (a) such differential treatment is provided pursuant to statute, or (b) the designated age is greater than 59 years or less than 21 years. Clause (b) does not apply to hiring, tenure, compensation, upgrading, or conditions of employment.

**Subd. 7. Summer youth employment program.** The provisions of section 363.03, subdivision 1, with regard to age shall not apply to the state summer youth employment program administered by the commissioner of jobs and training.

Laws 1955, c. 516, § 4. Amended by Laws 1961, c. 428, § 4; Laws 1965, c. 584, § 1; Laws 1967, c. 897, §§ 10, 11, eff. July 1, 1967; Laws 1973, c. 729, § 2; Laws 1975, c. 206, § 1; Laws 1977, c. 351, §§ 2 to 4; Laws 1977, c. 408, § 2, eff. June 3, 1977; Laws 1977, c. 430, § 25, subd. 1; Laws 1978, c. 649, § 4; Laws 1980, c. 355, § 3; Laws 1980, c. 509, § 143; Laws 1980, c. 531, § 3; Laws 1982, c. 492, § 2, eff. March 20, 1982; Laws 1982, c. 526, art. 2, § 16, eff. Aug. 1, 1982; Laws 1983, c. 276, §§ 5, 6, eff. June 7, 1983; Laws 1983, c. 301, § 198; Laws 1984, c. 608, § 3; Laws 1985, 1st Sp., c. 14, art. 9, § 75; Laws 1986, c. 444; Laws 1987, c. 23, § 2; Laws 1987, c. 129, §§ 1, 2; Laws 1988, c. 660, §§ 2, 3; Laws 1989, c. 280, §§ 4 to 8; Laws 1990, c. 567, § 2.

#### Historical and Statutory Notes

The 1961 amendment substituted "The provisions of section 363.03, subdivision 1" for "This chapter" in the introductory clause of subd. 1, and added subd. 2.

Laws 1961, c. 428, § 18 provides that this act as it relates to housing becomes effective December 31, 1962.

The 1965 amendment added the provisions of clause (3) in subd. 1, and deleted a clause from that subdivision reading "a person who regularly employs fewer than eight individuals, excluding individuals described in clause (1)."

The 1967 amendment, in subd. 2, deleted an exception reading "the rental, lease or sale of a one-family dwelling, owner occupied, not defined as a publicly assisted housing accommodation", and inserted subd. 3.

The 1973 amendment, in subd. 1, inserted cl. (8)(i) and cl. (8)(ii) (for text of cl. (ii) as inacted in 1973, see cl. (ii) under the amendment note for Laws 1983, c. 276, § 5, post).

The 1975 amendment deleted "mental" as qualifying "disability", and inserted "in the circumstances", "health or" and "the disabled person" in the second sentence of subd. 5.

Laws 1977, c. 351, added clauses (4) to (7) in subd. 1, and added subs. 6 and 7.

Laws 1977, c. 408, added what is now designated cl. (8)(iv) and cl. (8)(v) of subd. 1.

Laws 1977, c. 430, § 25, subd. 1 instructed the revisor of statutes to substitute "commissioner of economic security" and "department of economic security" for "commissioner of

employment services" and "department of employment services", respectively.

The 1978 amendment, in subd. 6, added "if it is established consistent with section 181.81" at the end of the first sentence, and inserted the second sentence, concerning pension credit to employees over the age 65.

Laws 1980, c. 355, added clauses (b) and (c) to subd. 3.

Laws 1980, c. 509, § 143 made a grammatical correction in subd. 3.

Laws 1980, c. 531, added subd. 2(2) (for text, see the 1989 amendment, post).

Laws 1980, c. 531, § 11, provides that this act is effective April 12, 1980, "except that this act shall not apply to adult-only residential buildings until either all the written leases in effect on the effective date of this act pertaining to rental units within these buildings have, by their terms, expired, or until two years from the effective date of this act, whichever occurs earlier."

Laws 1982, c. 492, added subd. 2(1)(a) (for text, see the 1989 amendment, post).

Laws 1982, c. 526, art. 2, § 16 added subd. 2a, effective March 23, 1982.

Laws 1983, c. 276, § 5 revised subd. 1(7) which formerly read:

"Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class oth-

**Pages 193-195 are not applicable and therefore are not included.**

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### Note 2

the fact that the state act against discrimination does not preempt field with regard to municipalities. Op.Atty.Gen. 59a-32(#3a), June 1, 1966.

#### 3. Employment—Religious or fraternal entities

Lutheran Brotherhood and Catholic Aid Association were within statutory exception for religious and fraternal organizations under the Fair Employment Practices Law and could impose qualification for employment based on religion when religion was bona fide occupational qualification for employment in position. Op.Atty.Gen., 271, Nov. 15, 1956.

#### 4. — Domestic service employment

Employee who cared for dairy herd for farm operator, but who did not care for or maintain operator's home, was not "domestic servant" within meaning of exception to Human Rights Act. State by Johnson v. Porter Farms, Inc., App.1986, 382 N.W.2d 543.

#### 5. — Physical examination, employment

Though employer did not comply with subd. 1(7)(i) (now, subd. 1(8)(i)) of this section when it required applicant to complete a physical examination without first making a job offer, individual could not maintain action for discrimination where he was not a disabled person within meaning of subd. 25 of § 363.01 of the Human Rights Act. State by Cooper v. Hennepin County, App.1988, 425 N.W.2d 278, affirmed 441 N.W.2d 106.

#### 6. — Pregnancy, employment

Even if hairstylist established prima facie case of discrimination in employment based on pregnancy in contravention of this chapter, employer presented sufficient evidence to support conclusion that continued employment during her pregnancy constituted "serious threat" to her health or safety, where physician rendered opinion that stylist should not perform permanents, implying that she and/or fetus could be harmed, stylist indicated that fumes gave her headaches, and stylist's husband expressed concern with regard to possible birth defects; thus, employer's decision to place stylist on medical leave until further clarification by physician was rendered was not in violation of this chapter. Khalifa v. G.X. Corp., App.1987, 408 N.W.2d 221.

## 363.03. Unfair discriminatory practices

**Subdivision 1. Employment.** Except when based on a bona fide occupational qualification, it is an unfair employment practice:

(1) For a labor organization, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

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#### 7. Education

Repeal of clause of city ordinance relating to religious institutions in the provision regarding discrimination in education did not conflict with state Human Rights Act, since such Act stated that it was not an unfair discriminatory practice for religious or denominational institution to limit admission or give preference to applicants of the same religion. St. Paul Citizens for Human Rights v. City Council of City of St. Paul, 1979, 289 N.W.2d 402.

#### 8. Manufactured home parks

Mobile home park operators' failure to have rule in writing that excluded children from mobile home park by effective date of M.S.A. § 327C.02, subd. 1, which requires mobile home park rules to be in writing, did not deny them exemption contained in M.S.A. § 363.02, subd. 2a allowing parks to reserve lots for households containing at least one elderly person, since operators complied with writing requirement within 15 days, and thus, tenant was not unlawfully discriminated against by operators' refusal to rent new lot to tenant on day after effective date of written rule requirement because two children had moved in with him. Seifred v. Zabel, App.1985, 369 N.W.2d 571.

Tenant of mobile home park bringing discrimination claim against park operators on basis of operators' refusal to rent new lot to tenant failed to meet burden of showing that required number of sites were not reserved for families with one member over 55, pursuant to M.S.A. § 363.02, subd. 2a, which states that prohibition against discrimination because of familial status does not apply to mobile home park the majority of whose lots are reserved by park rule to households containing at least one elderly person, and thus, tenant failed to prove that there was no valid adults only policy in effect as of effective date of M.S.A. § 327C.02, subd. 1, which requires park rules to be in writing. Seifred v. Zabel, App.1985, 369 N.W.2d 571.

#### 9. Public accommodations

Private associations and organizations, those, for example, that are selective in membership, are unaffected by Human Rights Act provisions pertaining to public accommodations. U. S. Jaycees v. McClure, 1981, 305 N.W.2d 764.

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(a) to deny full and equal membership rights to a person seeking membership or to a member;

(b) to expel a member from membership;

(c) to discriminate against a person seeking membership or a member with respect to hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

(d) to fail to classify properly, or refer for employment or otherwise to discriminate against a person or member.

(2) For an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, or age,

(a) to refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or

(b) to discharge an employee; or

(c) to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

(3) For an employment agency, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

(a) to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person; or

(b) to comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this chapter.

(4) For an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization, to

(a) require or request the person to furnish information that pertains to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age; or, subject to section 363.02, subdivision 1, to require or request a person to undergo physical examination; unless for the sole and exclusive purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or for the sole and exclusive purpose of compliance with the public contracts act or any rule, regulation, or laws of the United States or of this state requiring the information or examination. A law enforcement agency may, after notifying an applicant for a peace officer or part-time peace officer position that the law enforcement agency is commencing the background investigation on the applicant, request the applicant's date of birth, gender, and race on a separate form for the sole and exclusive purpose of conducting a criminal history check, a driver's license check, and fingerprint criminal history inquiry. The form shall include a statement indicating why the data is being collected and what its limited use will be. No document which has date of birth, gender, or



race information will be included in the information given to or available to any person who is involved in selecting the person or persons employed other than the background investigator. No person may act both as background investigator and be involved in the selection of an employee except that the background investigator's report about background may be used in that selection as long as no direct or indirect references are made to the applicant's race, age, or gender; or

(b) seek and obtain for purposes of making a job decision, information from any source that pertains to the person's race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age, unless for the sole and exclusive purpose of compliance with the public contracts act or any rule, regulation, or laws of the United States or of this state requiring the information; or

(c) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age.

Any individual who is required to provide information that is prohibited by this subdivision is an aggrieved party under section 363.06.

(5) For an employer, an employment agency, or a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work, including a duty to make reasonable accommodations as provided by paragraph (6).

(6) For an employer with 50 or more permanent, full-time employees, an employment agency, or a labor organization, not to make reasonable accommodation to the known disability of a qualified disabled person or job applicant unless the employer, agency, or organization can demonstrate that the accommodation would impose an undue hardship on the business, agency, or organization. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (a) making facilities readily accessible to and usable by disabled persons; and (b) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of a business or organization, factors to be considered include:

(a) the overall size of the business or organization with respect to number of employees or members and the number and type of facilities;

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(b) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;

(c) the nature and cost of the needed accommodation;

(d) the reasonable ability to finance the accommodation at each site of business; and

(e) documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant.

**Subd. 1a. Disclosure of medical information.** If any health care records or medical information adversely affects any hiring, firing, or promotional decision concerning an applicant or employee, the employer must notify the affected party of that information within ten days of the final decision.

**Subd. 2. Real property.** It is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these:

(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status; or

(b) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith, except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

(c) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status, or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this subdivision prohibiting discrimination because of familial status do not apply to the dwelling unit.

(2) For a real estate broker, real estate salesperson, or employee, or agent thereof:

(a) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status; or

(b) to discriminate against any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(c) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this subdivision prohibiting discrimination because of familial status do not apply to the dwelling unit.

(3) For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(a) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith; or

(b) to use any form of application for the financial assistance or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital

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status, status with regard to public assistance, disability, or familial status or any intent to make any such limitation, specification, or discrimination; or

(c) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith.

(4) For any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, the person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, marital status, status with regard to public assistance, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(5) For a person to deny a totally or partially blind, physically handicapped, or deaf person with a service dog full and equal access to real property provided for in this section. The person may not be required to pay extra compensation for the service dog but is liable for damage done to the premises by the service dog.

(6) For a person to coerce, intimidate, threaten, or interfere with a person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged a third person in the exercise or enjoyment of, any right granted or protected by this subdivision.

Notwithstanding the provisions of any law, ordinance, or home rule charter to the contrary, no person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one of the exemptions provided for a dwelling unit provided for in section 363.02, subdivision 2.

**Subd. 2a. Real property; disability discrimination.** (a) For purposes of subdivision 2, discrimination includes:

(1) a refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by the disabled person if modifications may be necessary to afford the disabled person full enjoyment of the premises; a landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, excluding reasonable wear and tear;

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(2) a refusal to make reasonable accommodations in rules, policies, practices, or services, when accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling; or

(3) in connection with the design and construction of covered multifamily dwellings for first occupancy after March 13, 1991, a failure to design and construct those dwellings in a manner that:

(i) the public use and common use portions are readily accessible to and usable by a disabled person;

(ii) all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by disabled persons in wheelchairs; and

(iii) all premises contain the following features of adaptive design: an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(b) As used in this subdivision, the term "covered multifamily dwellings" means:

(1) a building consisting of four or more units if the building has one or more elevators; and

(2) ground floor units in other buildings consisting of four or more units.

(c) This subdivision does not invalidate or limit any law of the state or political subdivision of the state, or other jurisdiction in which this subdivision applies, that requires dwellings to be designed and constructed in a manner that affords disabled persons greater access than is required by this subdivision.

(d) This subdivision does not require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

**Subd. 3. Public accommodations.** It is an unfair discriminatory practice:

(1) To deny any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation because of race, color, creed, religion, disability, national origin, or sex. It is an unfair discriminatory practice for a taxicab company to discriminate in the access to, full utilization of, or benefit from service because of a person's disability.

(2) For a place of public accommodation not to make reasonable accommodation to the known physical disability of a disabled person. In determining whether an accommodation is reasonable, the factors to be considered may include:

(a) the frequency and predictability with which members of the public will be served by the accommodation at that location;

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(b) the size of the business or organization at that location with respect to physical size, annual gross revenues, and the number of employees;

(c) the extent to which disabled persons will be further served from the accommodation;

(d) the type of operation;

(e) the nature and amount of both direct costs and legitimate indirect costs of making the accommodation and the reasonableness for that location to finance the accommodation;

(f) the extent to which any persons may be adversely affected by the accommodation.

State or local building codes control where applicable. Violations of state or local building codes are not violations of this chapter and must be enforced under normal building code procedures. Nothing in this subdivision requires structural changes to real property except as required by state or local building codes.

This subdivision does not create a different standard of care. It applies only to unfair discriminatory practice cases brought under this statute and to no other causes of action.

**Subd. 4. Public services.** It is an unfair discriminatory practice:

(1) To discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, disability, sex or status with regard to public assistance or to fail to ensure physical and program access for disabled persons unless the public service can demonstrate that providing the access would impose an undue hardship on its operation. In determining whether providing physical and program access would impose an undue hardship, factors to be considered include:

(a) the type and purpose of the public service's operation;

(b) the nature and cost of the needed accommodation;

(c) documented good faith efforts to explore less restrictive or less expensive alternatives; and

(d) the extent of consultation with knowledgeable disabled persons and organizations.

Physical and program access must be accomplished within six months of the effective date of this section, except for needed architectural modifications, which must be made within two years of the effective date of this section.

(2) For public transit services to discriminate in the access to, full utilization of, or benefit from service because of a person's disability. Public transit services may use any of a variety of methods to provide transportation for disabled people, provided that persons who are disabled are offered transportation that, in relation to the transportation offered nondisabled persons, is:

(a) in a similar geographic area of operation. To the extent that the transportation provided disabled people is not provided in the same geograph-

ic area of operation as that provided nondisabled people, priority must be given to those areas which contain the largest percent of disabled riders. A public transit service may not fail to provide transportation to disabled persons in a geographic area for which it provides service to nondisabled persons if doing so will exclude a sizable portion of the disabled ridership;

- (b) during similar hours of operation;
- (c) for comparable fares;
- (d) with similar or no restrictions as to trip purpose; and
- (e) with reasonable response time.

Public transit services must meet these five criteria for the provision of transit services within three years of the effective date of this section.

Subd. 4a. Repealed by Laws 1983, c. 276, § 11, eff. June 7, 1983.

**Subd. 5. Educational institution.** It is an unfair discriminatory practice:

(1) To discriminate in any manner in the full utilization of or benefit from any educational institution, or the services rendered thereby to any person because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability, or to fail to ensure physical and program access for disabled persons. For purposes of this paragraph, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

(2) To exclude, expel, or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student because of race, color, creed, religion, national origin, sex, age, marital status, status with regard to public assistance or disability.

(3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, creed, religion, national origin, sex, age, marital status or disability of a person seeking admission, except as permitted by rules of the department.

**Subd. 6. Aiding and abetting and obstruction.** It is an unfair discriminatory practice for any person:

(1) Intentionally to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(2) Intentionally to attempt to aid, abet, incite, compel, or coerce a person to engage in any of the practices forbidden by this chapter;

(3) To intentionally obstruct or prevent any person from complying with the provisions of this chapter, or any order issued thereunder, or to resist, prevent, impede, or interfere with the commissioner or any of the commissioner's employees or representatives in the performance of duty under this chapter.

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**Subd. 7. Reprisals.** It is an unfair discriminatory practice for any employer, labor organization, employment agency, public accommodation, public service, educational institution, or owner, lessor, lessee, sublessee, assignee or managing agent of any real property, or any real estate broker, real estate salesperson or employee or agent thereof to intentionally engage in any reprisal against any person because that person:

(1) Opposed a practice forbidden under this chapter or has filed a charge, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under this chapter; or

(2) Associated with a person or group of persons who are disabled or who are of different race, color, creed, religion, or national origin.

A reprisal includes, but is not limited to, any form of intimidation, retaliation, or harassment. It is a reprisal for an employer to do any of the following with respect to an individual because that individual has engaged in the activities listed in clause (1) or (2): refuse to hire the individual; depart from any customary employment practice; transfer or assign the individual to a lesser position in terms of wages, hours, job classification, job security, or other employment status; or inform another employer that the individual has engaged in the activities listed in clause (1) or (2).

**Subd. 8. Credit; discrimination.** It is an unfair discriminatory practice:

(1) to discriminate in the extension of personal or commercial credit to a person, or in the requirements for obtaining credit, because of race, color, creed, religion, disability, national origin, sex, or marital status; or

(2) for a credit card issuer to refuse to issue a credit card to a woman under her current or former surname unless there is an intent to defraud or mislead, except that a credit card issuer may require that a woman requesting a card under a former surname open a separate account in that name. A credit card issuer may also require disclosure of any other names under which the credit card applicant may have a credit history.

**Subd. 8a. Business discrimination.** It is an unfair discriminatory practice for a person engaged in a trade or business or in the provision of a service:

(a) to refuse to do business with or provide a service to a woman based on her use of her current or former surname; or

(b) to impose, as a condition of doing business with or providing a service to a woman, that a woman use her current surname rather than a former surname; or

(c) intentionally to refuse to do business with, to refuse to contract with, or to discriminate in the basic terms, conditions, or performance of the contract because of a person's race, color, sex, or disability, unless the alleged refusal or discrimination is because of a legitimate business purpose.

Nothing in this subdivision shall prohibit positive action plans.

**Subd. 8b. Violation of act.** It shall be a violation of this chapter for any person furnishing credit service to discriminate against any person who is the



recipient of federal, state or local public assistance, including medical assistance, or who is a tenant receiving federal, state or local housing subsidies, including rental assistance or rent supplements, because the individual is such a recipient.

**Subd. 9. Interference with pension rights.** For purposes of subdivision 1 discrimination on account of age shall include acts which interfere with an employee's opportunity to acquire pension credits or pension benefits when the interference cannot be shown to have been based on just cause unrelated to the employee's status with regard to pension credits or pension benefits.

**Subd. 10. Discrimination against blind, handicapped, or deaf persons prohibited.** (a) It is an unfair discriminatory practice for an owner, operator or manager of a hotel, restaurant, public conveyance or other public place, to prohibit a blind, physically handicapped, or deaf person from taking a service dog into the public place or conveyance if the service dog can be properly identified as being from a recognized school for seeing eye, hearing ear, service, or guide dogs, and if the dog is properly harnessed or leashed so that the blind, physically handicapped, or deaf person may maintain control of the dog.

(b) No person shall require a blind, physically handicapped, or deaf person to make an extra payment or pay an additional charge when taking a service dog into any of the public places referred to in paragraph (a).

**Subd. 11. Disparate impact cases.** If the complaining party has met its burden of showing that an employment practice is responsible for a statistically significant adverse impact on a particular class of persons protected by section 363.03, subdivision 1, clause (2), an employer must justify that practice by demonstrating that the practice is manifestly related to the job or significantly furthers an important business purpose. Upon establishment of this justification, the charging party may prevail upon demonstration of the existence of a comparably effective practice that the court finds would cause a significantly lesser adverse impact on the identified protected class.

Laws 1955, c. 516, § 5. Amended by Laws 1961, c. 428, § 5; Laws 1965, c. 585, § 2; Laws 1965, c. 586, § 1; Laws 1967, c. 897, §§ 12 to 16, eff. July 1, 1967; Laws 1969, c. 9, § 80; Laws 1969, c. 975, §§ 3 to 5, eff. June 7, 1969; Laws 1973, c. 296, § 1; Laws 1973, c. 729, §§ 3, 16; Laws 1974, c. 354, § 1; Laws 1975, c. 206, §§ 2 to 5; Laws 1977, c. 351, §§ 5 to 7; Laws 1977, c. 408, § 3, eff. June 3, 1977; Laws 1980, c. 531, § 4; Laws 1980, c. 540, §§ 1, 2, eff. April 12, 1980; Laws 1981, c. 330, § 1, eff. May 30, 1982; Laws 1982, c. 517, § 8; Laws 1983, c. 216, art. 1, § 59; Laws 1983, c. 276, §§ 7 to 10, eff. June 7, 1983; Laws 1984, c. 533, §§ 2, 3; Laws 1985, c. 248, § 70; Laws 1986, c. 444; Laws 1987, c. 23, § 3; Laws 1987, c. 129, § 3; Laws 1987, c. 141, § 2; Laws 1987, c. 245, § 1; Laws 1988, c. 660, § 4; Laws 1989, c. 280, §§ 9 to 14, 21; Laws 1990, c. 567, §§ 3 to 6.

#### Historical and Statutory Notes

The 1961 amendment added subd. 2.

Laws 1961, c. 428, § 18 provides that this act as it relates to housing becomes effective December 31, 1962.

Laws 1965, c. 585, § 2 added subd. 3.

Laws 1965, c. 586, § 1 excluded a reference in subd. 1(7) and subd. 2(4) to interference with the performance of duty or orders of "the board of review."

**Pages 207-223 are not applicable and therefore are not included.**

purports to be a waiver by an individual of any right or remedy provided in this chapter is contrary to public policy and void if the waiver or release purports to waive claims arising out of acts or practices which occur after the execution of the waiver or release.

**Subd. 2. Rescission of waiver.** A waiver or release of rights or remedies secured by this chapter which purports to apply to claims arising out of acts or practices prior to, or concurrent with, the execution of the waiver or release may be rescinded within 15 calendar days of its execution, except that a waiver or release given in settlement of a claim filed with the department or with another administrative agency or judicial body is valid and final upon execution. A waiving or releasing party shall be informed in writing of the right to rescind the waiver or release. To be effective, the rescission must be in writing and delivered to the waived or released party either by hand or mail within the 15-day period. If delivered by mail, the rescission must be:

- (1) postmarked within the 15-day period;
- (2) properly addressed to the waived or released party; and
- (3) sent by certified mail return receipt requested.

Laws 1984, c. 567, § 1, eff. Aug. 1, 1984. Amended by Laws 1985, c. 175, § 1.

#### Historical and Statutory Notes

The 1985 amendment rewrote the section, which prior thereto read:

"Any provision, whether oral or written, of a lease, contract, or other agreement or instrument, which purports to be a waiver by an individual of any right or remedy provided in chapter 363 is contrary to public policy and void. Nothing in this section shall be con-

strued to prevent a waiver given in full and final written settlement of an existing, identified claim, whether by grievance, mediation, arbitration, or other settlement agreement."

Laws 1985, c. 175, § 2, provides that the amendment to the provisions of subd. 1 of this section is effective retroactive to Aug. 1, 1984. The remainder of the amendment is effective Sept. 1, 1985.

#### Library References

Civil Rights ⇨131.  
WESTLAW Topic No. 78.

#### Notes of Decisions

Arbitration agreements 2  
Construction and application 1

Spitzmueller v. Burlington Northern R. Co.,  
D.Minn.1990, 740 F.Supp. 671.

##### 1. Construction and application

This section of the Minnesota Human Rights Act on rescission of waiver did not apply to railroad employee's release of rights under labor protection benefits provided pursuant to merger, so as to render release unenforceable for violating public policy in absence of opportunity for rescission; the statutory language applied only to claims arising under the Act.

##### 2. Arbitration agreements

This section did not preclude finding that judicial remedies for violation of this chapter were waived in favor of arbitration pursuant to arbitration contract. Swenson v. CDI Corp., D.Minn.1987, 670 F.Supp. 1438, affirmed in part, reversed in part 858 F.2d 1304, rehearing denied 872 F.2d 264, certiorari denied 110 S.Ct. 143, 107 L.Ed.2d 102.

#### 363.032. Affirmative marketing regulations

To promote and encourage open housing policies, the commissioner must establish affirmative marketing regulations for housing developers that re-

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ceive more than \$50,000 in state or local funds. The regulations must require the management or marketing agency for the housing development to adopt an information distribution or marketing plan for actively informing minorities and other protected groups of available housing opportunities. For purposes of this subdivision, "protected groups" has the meaning given it in section 43A.02, subdivision 33. The commissioner may adopt rules to carry out the purposes of this section.

Laws 1989, c. 328, art. 3, § 1.

### Library References

Civil Rights ¶131.  
WESTLAW Topic No. 78.

### 363.033. Rental housing priority; accessible units

**Subdivision 1. Definitions.** The definitions in this subdivision apply to this section.

(a) "Accessible unit" means an accessible rental housing unit that meets the handicapped facility requirements of the state building code, Minnesota Rules, chapter 1340.

(b) "Owner" has the meaning given it in section 566.18, subdivision 3.

**Subd. 2. Priority requirement.** (a) An owner of rental housing that contains accessible units must give priority for the rental of an accessible unit to a disabled person or a family with a disabled family member who will reside in the unit. The owner must inform nondisabled persons and families that do not include a disabled family member of the possibility of being offered a non-handicapped-equipped unit as provided under this section before a rental agreement to rent an accessible unit is entered.

(b) If a nondisabled person or a family that does not include a disabled person is living in an accessible unit, the person or family must be offered a non-handicapped-equipped unit if the following conditions occur:

(1) a disabled person or a family with a disabled family member who will reside in the unit has signed a rental agreement to rent the accessible unit; and

(2) a similar non-handicapped-equipped unit in the same rental housing complex is available at the same rent.

Laws 1989, c. 328, art. 3, § 2.

### Cross References

Tenant remedies, definitions, see § 566.18.

### 363.04. Department of human rights

**Subdivision 1. Creation; commissioner.** There is established a department of human rights under the direction and supervision of a commissioner who shall be appointed by the governor under the provisions of section 15.06.

**Subd. 2. Deputy commissioner, duties.** There shall be in the department a deputy commissioner, who shall be appointed by the commissioner and

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(2) Housing for elderly persons.

(d) *Familial status and age.* No person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one of the exemptions provided for a dwelling unit in section 139.30(c).

(e) *Education.*

- (1) It is not an unfair discriminatory practice for a religious or denominational institution to limit admission or give preference to applicants of the same religion.
- (2) The provisions of section 139.40(j) relating to sex shall not apply to a private educational institution, or branch or level of a private educational institution, in which students of only one sex are permitted to enroll.
- (3) Nothing in this title shall prohibit an educational institution from requiring from applicants information which relates to academic qualifications or achievements.

(f) *Disability.* Nothing in this title shall be construed to prohibit the creation or operation of any program, service, facility or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate or accommodate that person. It is a defense to a complaint or action brought under this title that the person bringing the complaint or action has a disability which in the circumstances and even with reasonable accommodation poses a serious threat to the health or safety of the other persons. The burden of proving this defense is upon the respondent.

(g) *Affirmative action.* Nothing in this title shall be interpreted as restricting the implementation of positive action programs to combat discrimination. (Ord. of 12-30-75, § 3; 82-Or-114, § 3, 6-25-82; 87-Or-040, §§ 5, 6, 3-13-87; 88-Or-108, §§ 2, 3, 6-17-88; 90-Or-275, § 2, 11-9-90; 92-Or-063, §§ 7, 8, 5-22-92; 93-Or-132, § 3, 8-27-93)

**139.40. Acts of discrimination specified.** Without limitation, the following are declared to be unfair discriminatory acts:

(a) *Discrimination by a labor organization.* Except when based on a bona fide occupational qualification, for any labor organization, because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance:

- (1) To deny full and equal membership rights to a person seeking membership or to a member;
- (2) To expel a member from membership;
- (3) To discriminate against a person seeking membership or a member with respect to his hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment;
- (4) To fail to classify properly, or refer for employment or otherwise to discriminate against a person or member;
- (5) To fail to make reasonable accommodation to the known disability of a qualified disabled person unless the labor organization can demonstrate that the accommodation would impose an undue hardship on it. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (i) making facilities readily accessible to and usable by disabled persons; and (ii) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis. In determining whether an accommodation would impose an undue hardship on the operation of a labor organization, factors to be considered include:

- a. The overall size of the labor organization with respect to number of members and the number and type of facilities in which those members are employed;

- b. The type of operation, including the composition and structure of the work force;
  - c. The nature and cost of the needed accommodation;
  - d. The reasonable ability to finance the accommodation at each site of business; and
  - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person and with knowledgeable disabled persons or organizations.
- (b) *Discrimination in employment.* Except when based on a bona fide occupational qualification, for an employer because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance:
- (1) To fail or refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment;
  - (2) To discharge an employee;
  - (3) To discriminate against a person or employee with respect to application, hiring, training, apprenticeship, tenure, promotion, upgrading, compensation, layoff, discharge, or any term or condition of employment;
  - (4) For an employer with fifty (50) or more permanent full-time employees to fail to make reasonable accommodation to the known disability of a qualified disabled person unless it can demonstrate that the accommodation would impose an undue hardship on it. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (i) making facilities readily accessible to and usable by disabled persons; and (ii) job restructuring, modified work schedules, acquisition or

modification of equipment or devices, and the provision of aides on a temporary or periodic basis. A prospective employer need not pay for an accommodation for a job applicant if it is available from an alternative source without cost to the employer or applicant. In determining whether an accommodation would impose an undue hardship on the operation of an employer, factors to be considered include:

- a. The overall size of the employer with respect to number of employees or members and the number and type of facilities;
  - b. The type of operation, including the composition and structure of the work force;
  - c. The nature and cost of the needed accommodation;
  - d. The reasonable ability to finance the accommodation at each site of business; and
  - e. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person and with knowledgeable disabled persons or organizations.
- (c) *Discrimination by an employment agency.* Except when based on a bona fide occupational qualification, for an employment agency because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance:
- (1) To refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person;
  - (2) To comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this title;
  - (3) To fail to make reasonable accommodation to the known disability of a qual-

ified disabled person unless it can demonstrate that the accommodation would impose an undue hardship on it. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to, nor does it necessarily require: (i) making facilities readily accessible to and usable by disabled persons; and (ii) job restructuring, modified work schedules, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis. In determining whether an accommodation would impose an undue hardship on the operation of an employment agency, factors to be considered include:

- a. The overall size of the agency with respect to number of persons referred for employment and the kind or type of employment to which persons are referred;
  - b. The nature and cost of the needed accommodation;
  - c. Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person and with knowledgeable disabled persons or organizations.
- (d) Discriminatory practices in furnishing employment information and employment advertising. Except when based on a bona fide occupational qualification, for an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization:
- (1) To require a person to furnish information that pertains to race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance, unless:
    - a. For the purpose of national security, information pertaining to na-

tional origin is required by the United States, this state, or a political subdivision or agency of the United States or this state; or

- b. For the purpose of compliance with the Public Contracts Act or any rule, regulation or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance is required by the United States, this state, or a political subdivision or agency of the United States or this state; or
- (2) To cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, or status with regard to public assistance.
- (e) *Discrimination in real estate.* For an owner, lessee, sublessee, managing agent of, real estate broker, real estate salesperson or other person having the right to sell, rent or lease any property, or any agent or employee of any of these:
  - (1) To refuse to sell, rent or lease, to offer for sale, rental or lease, or otherwise deny or withhold any real property to or from any person or group of persons or to refuse to negotiate for the sale, rental or lease of any real property to any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, status with regard to public assistance or familial status;
  - (2) To represent that real property is not available for inspection, sale, rental or lease when in fact it is so available, or



otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, status with regard to public assistance or familial status;

- (3) To discriminate against any person in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, status with regard to public assistance or familial status; or
- (4) To fail or refuse to make reasonable accommodations in rules, policies, practices or services when necessary to afford a disabled person an opportunity to use, enjoy or continue to use or enjoy a dwelling; or
- (5) To print, circulate or post, or cause to be printed, circulated or posted, any advertisement or sign, or use any form of application for the purchase, rental or lease of any real property, or make any record or inquiry verbal or written in connection with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, status with regard to public assistance or familial status.
- (6) To fail to design and construct covered multifamily dwellings available for first occupancy after March 13, 1991, so that:
  - a. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of terrain or unusual site characteristics; or

b. With respect to dwellings with a building entrance on an accessible route:

1. The public and common use portions are readily accessible to and usable by disabled persons;
2. There is an accessible route into and through all dwellings and units;
3. All doors designed to allow passage into, within and through these dwellings and individual units are wide enough for disabled persons in wheelchairs;
4. Light switches, electrical switches, electrical outlets, thermostats, and other environmental controls are in accessible locations;
5. Bathroom walls are reinforced to allow later installation of grab bars; and
6. Kitchens and bathrooms have space for an individual in a wheelchair to maneuver.

For purposes of this subsection, the term "covered multifamily dwellings" means:

- a. Buildings consisting of four (4) or more units if such buildings have one (1) or more elevators; and
  - b. Ground floor units in other buildings consisting of four (4) or more units.
- (7) To fail to make reasonable accommodation to the known disability of a disabled person.
- (f) *Discriminatory representation by real estate brokers or real estate salespersons.* For any real estate broker or real estate salesperson, property owner, rental agent, property manager, caretaker or any agent or employee thereof, for the purpose of inducing a real property transaction from which a person, that person's firm, or any of its members

may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, status with regard to public assistance or familial status of the owners or occupants in the block, neighborhood or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(g) *Discrimination by professional organizations.* Except when based on a bona fide occupational qualification, for any professional association, because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age, marital status, status with regard to public assistance or familial status:

- (1) To deny full and equal membership rights to a person seeking membership or to a member;
- (2) To expel a member from membership;
- (3) To discriminate against a person seeking membership or a member with respect to the terms and conditions of membership, services and privileges associated with membership, participation in all membership activities and benefits, or any other aspect of membership;
- (4) To fail to properly classify a person seeking membership or a member with regard to the availability of membership services, cost of membership or otherwise discriminate against a person seeking membership or a member;
- (5) To fail to make reasonable accommodation to the known disability of a qualified disabled person unless the professional organization can demonstrate

that the accommodation would impose an undue hardship on it.

(h) *Discrimination in lending.* For any person, bank, banking organization, mortgage company, insurance company, broker, underwriter or other financial institution or lender, or any agent or employee thereof, to whom application is made for financial assistance:

- (1) To discriminate against any person or group of persons because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, or status with regard to public assistance or familial status in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith;
- (2) To use any form of application for such financial assistance or make any verbal or written record or inquiry in connection with applications for such financial assistance which expresses, directly or indirectly, any preference, limitation, specification or discrimination as to race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, or status with regard to public assistance or familial status or any intent to make any such preference, limitation, specification or discrimination;
- (3) To discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of the social, economic or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions or privileges of any such financial assistance or in the extension of services in connection therewith. All financial institutions shall post the following sign in a conspicuous place:

"This institution abides by the federal, state and local laws prohibiting the denial of a mortgage or home improvement loan or the granting of a mortgage or home improvement loan on different terms, because of the conditions in the neighborhood in which the home is located. If you believe you have been discriminated against, call either of the following agencies for help: State Human Rights Department; City Civil Rights Department."

- (i) *Discrimination in public accommodations.* For any person engaged in the provision of public accommodations, because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, or status with regard to public assistance:
  - (1) To fail or refuse to provide to any person access to the use of and benefit from the services and facilities of such public accommodations; or
  - (2) To discriminate against any person with respect to the availability of such services and facilities, the price or other consideration therefor, the scope and quality thereof, or the terms and conditions under which the same are made available, including terms and conditions relating to credit, payment, warranties, delivery, installation and repair.
- (j) *Discrimination in public services.* For any person engaged in the provision of public services, because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, marital status, or status with regard to public assistance, to discriminate against any person in the access to, admission to, full use of or benefit from any public service.
- (k) *Discrimination in educational institutions.* For any educational institution, because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, dis-

ability, marital status, or status with regard to public assistance:

- (1) To discriminate against any person in the full use of or benefit from such institution, or the services rendered thereby to any persons because of protected class status or to fail to ensure physical or program access for disabled persons. For purposes of this paragraph, program access includes but is not limited to providing taped texts, interpreters or other methods of making orally delivered materials available, readers in libraries, adapted classroom equipment, and similar auxiliary aids or services. Program access does not include providing attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.
- (2) To exclude, expel or otherwise discriminate against a person seeking admission as a student, or a person enrolled as a student.
- (3) To make or use a written or oral inquiry, or form of application for admission that elicits or attempts to elicit information, or to make or keep a record concerning the protected class status of an applicant, except when maintained as applicant flow data in a file that is not accessible to persons making admission decisions.
- (4) To fail to make reasonable accommodations to the known disability of a qualified disabled person unless it can demonstrate that the accommodation would impose an undue hardship on it. In determining whether an accommodation would impose an undue hardship on the operation of an educational institution, factors to be considered include:
  - (i) The overall size of the educational institution with respect to number of students and the number and type of facilities;
  - (ii) The nature and cost of the needed accommodation;

- (iii) The reasonable ability of the educational institution to finance the accommodation;
- (iv) Documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

(l) *Aiding, abetting or facilitating discrimination; reprisals related to discrimination; coercion related to housing.* For any person:

- (1) To conceal or attempt to conceal any discriminatory act forbidden by this title or to aid, abet, compel, coerce, incite or induce, or attempt to induce, another person to discriminate;
- (2) To use any trick, artifice, advertisement, sign, form of application, record on inquiry or any device whatsoever to bring about or facilitate discrimination;
- (3) To engage in any reprisal, economic or otherwise, because another person opposed a discriminatory act forbidden under this title, has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this title, or has associated with a person or group of persons of a different race, color, creed, religion, ancestry, national origin, sex, affectional preference, status with regard to disability, age, marital status, status with regard to public assistance or familial status;
- (4) To coerce, intimidate, threaten, or interfere with any person in the exercise of or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right with regard to real estate granted or protected by subsections (e), (f) or (h) of this section. (Ord. of 12-30-75, § 4; 82-Or-114, § 4, 6-25-82; 87-Or-040, §§ 7-9, 3-13-87; 88-Or-108, § 4, 6-17-88; 89-Or-038, 2-24-89; 90-Or-275, §§ 1-3, 11-

9-90; 92-Or-063, § 9, 5-22-92; 93-Or-132, §§ 4-8, 8-27-93)

**139.50. Provisions required in contracts with city.** (a) Unless exempted by the director, all City of Minneapolis contracting agencies shall include in every city contract the following provisions, specifically or by reference:

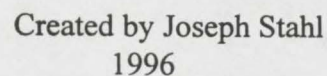
During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, affectional preference, disability, age (forty (40) to seventy (70)), marital status, or status with regard to public assistance. The contractor will take affirmative action to ensure that all employment practices are free of such discrimination. Such employment practices include but are not limited to the following: Hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that it is an equal opportunity or affirmative action employer.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 139.50 of the Minneapolis Code of Ordinances, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

# **APPENDIX B**

## **Maps**

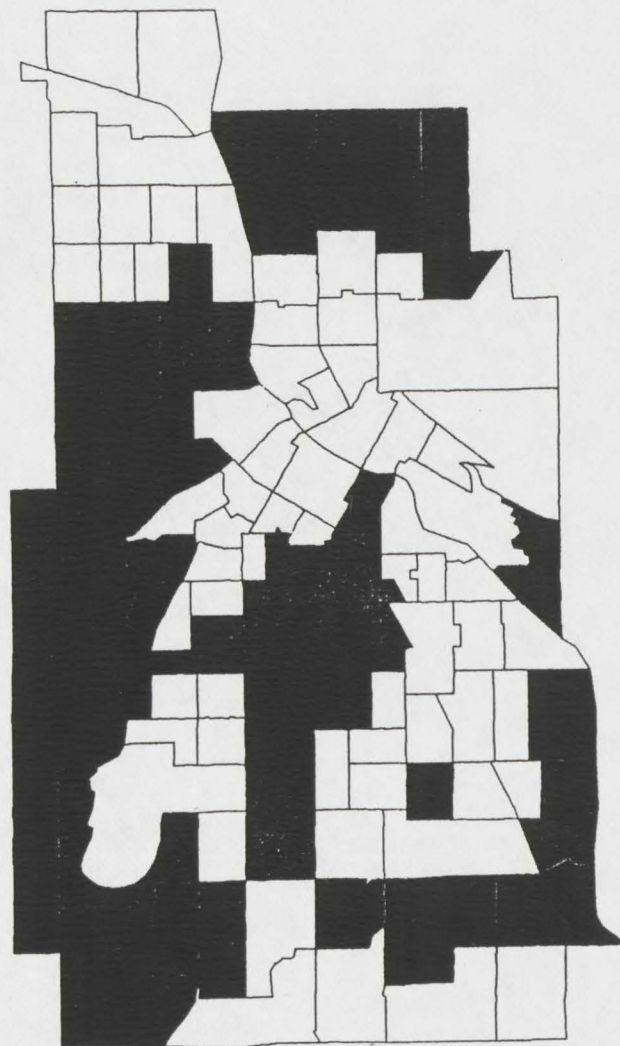
# 1990 Census





# RACIAL SEGREGATION IN MINNEAPOLIS

Racially Identifiable Census tracts, 1990

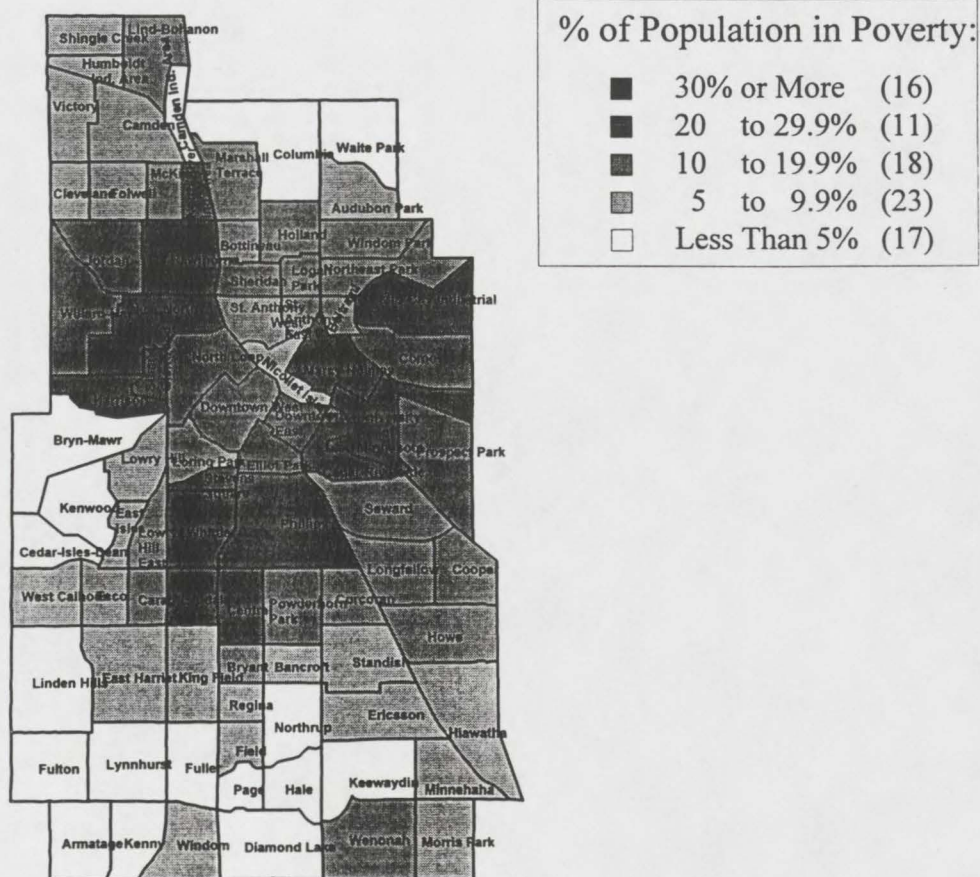


**Race-Identified Tracts**  
1990 Census

■	Minority Identified (>36%)	(33)
□	White Identified (>84%)	(26)
□	all others	(4)

# Poverty Rate by Neighborhood

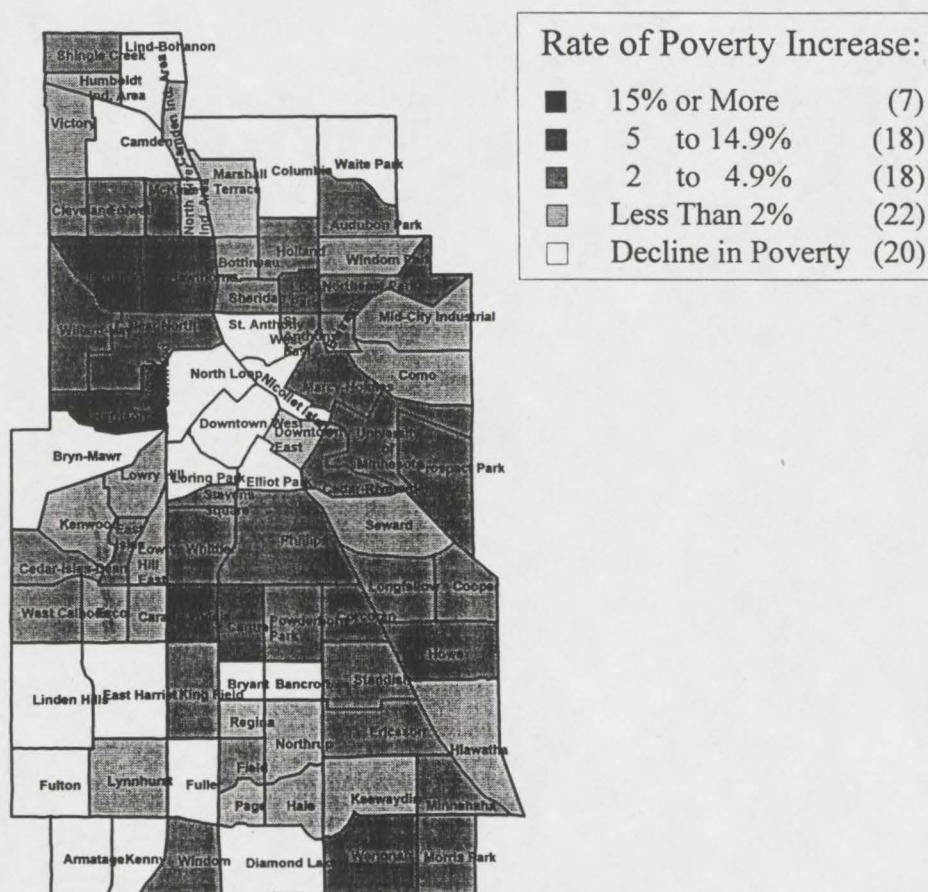
1990 Census





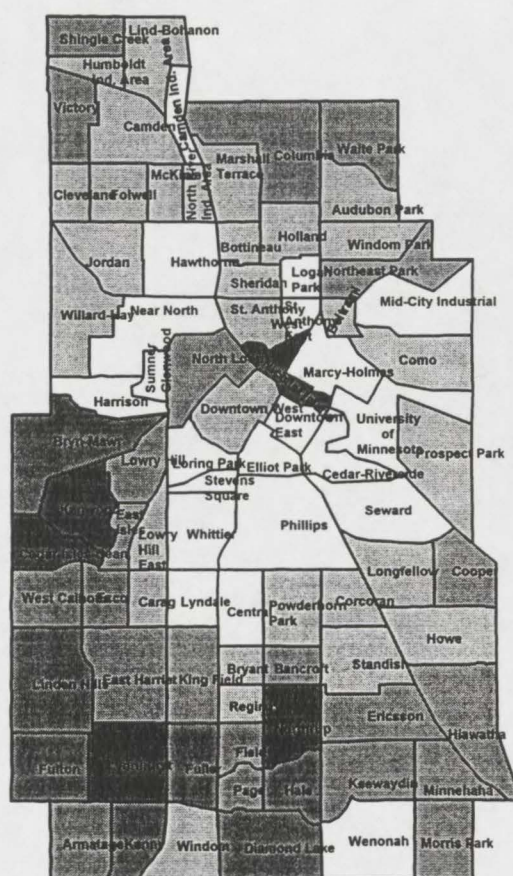
# Poverty Rate Changes by Neighborhood

Census Data: 1980 to 1990



# Household Income by Neighborhood

## 1990 Census

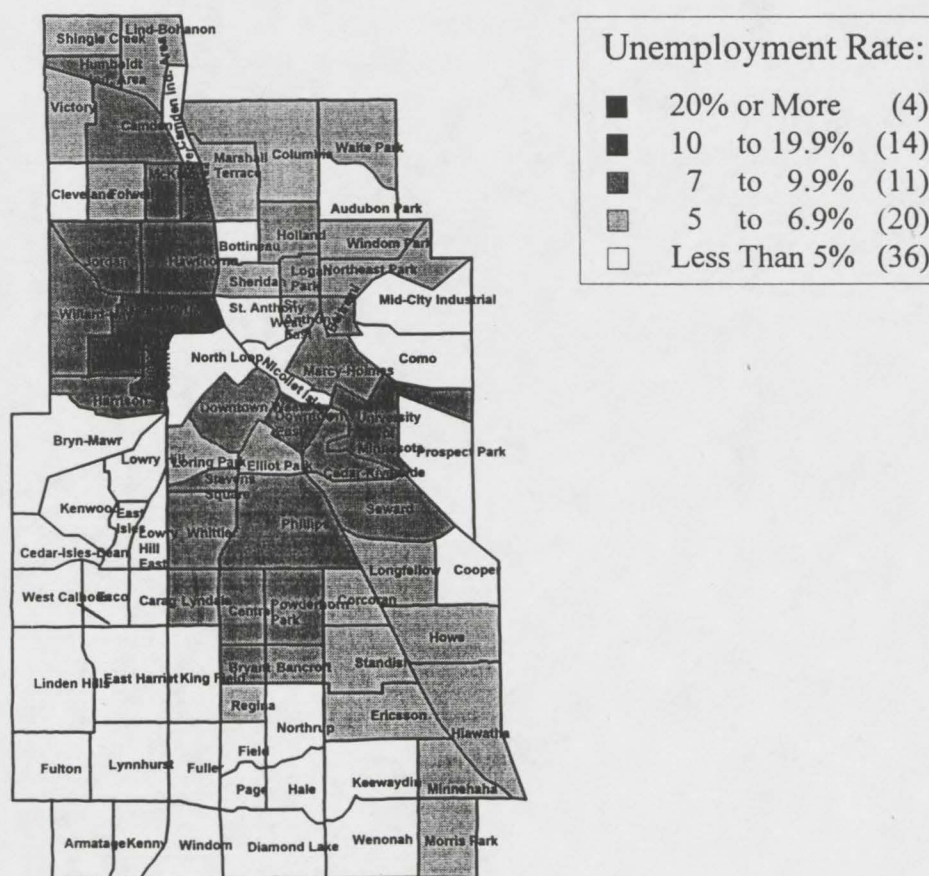


Household Income:		
■	\$50,000 or More	(5)
■	\$40,000 to \$49,999	(7)
■	\$30,000 to \$39,999	(22)
■	\$20,000 to \$29,999	(30)
□	Less Than \$20,000	(21)

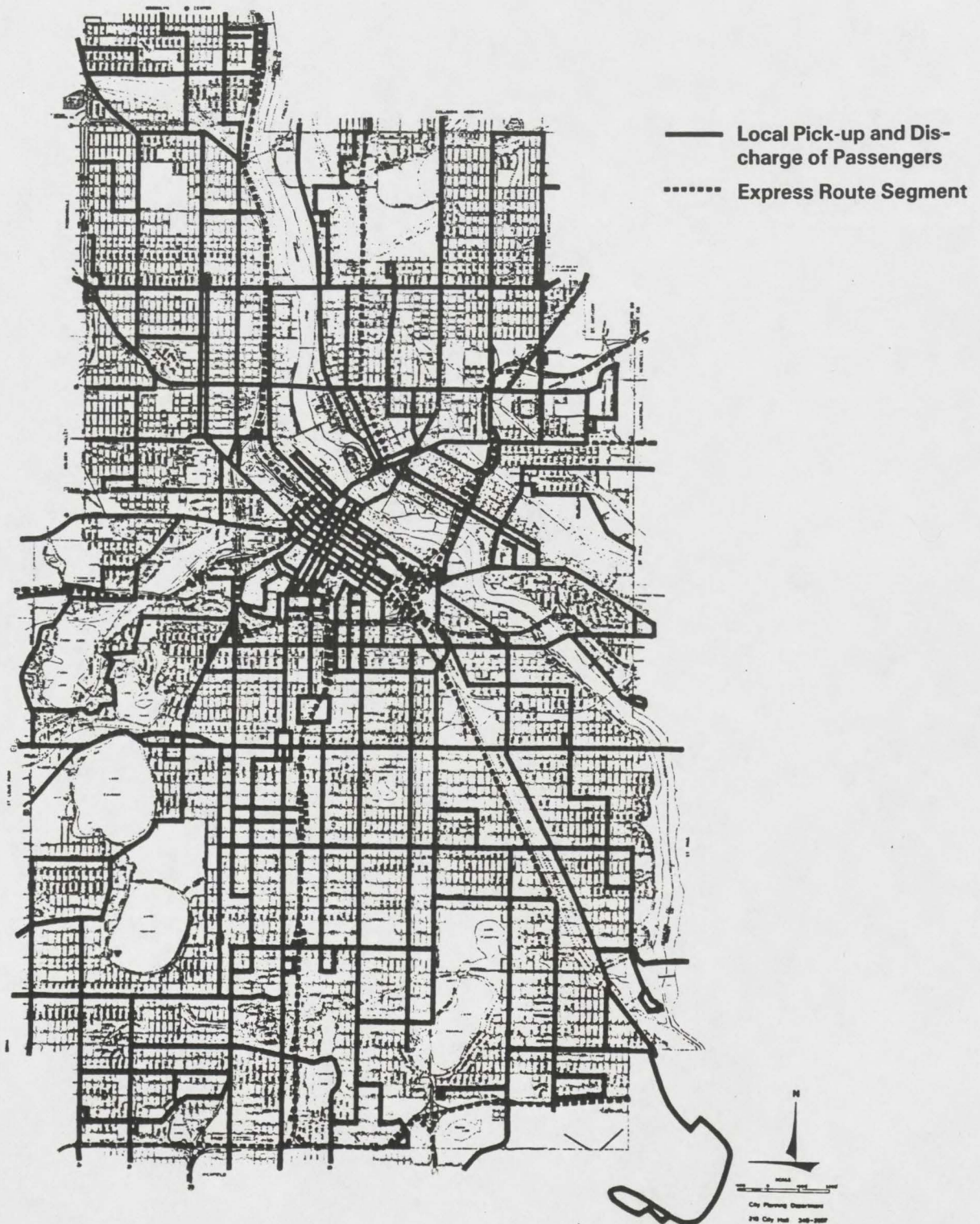


# Unemployment Rate by Neighborhood

# 1990 Census

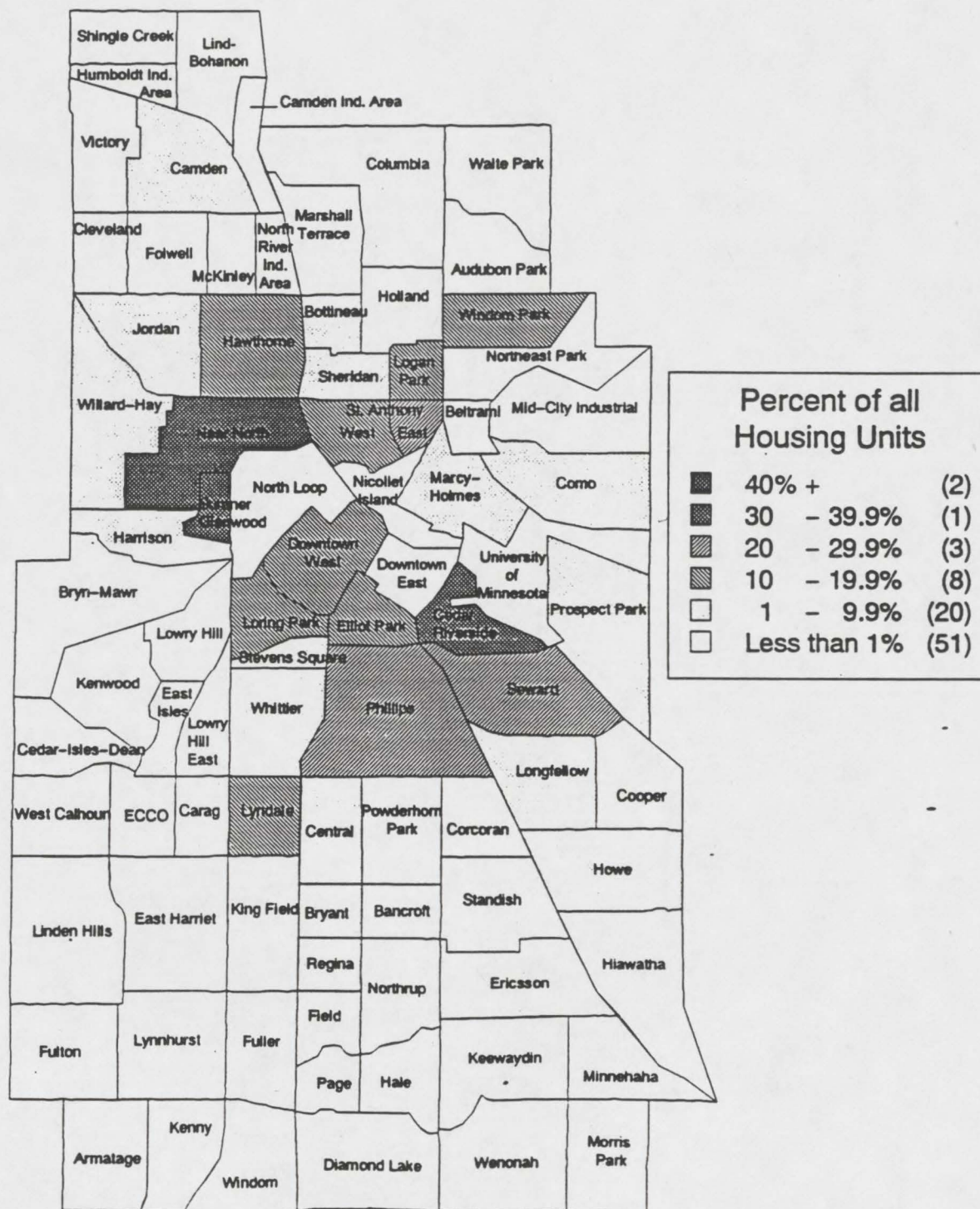


MTCO BUS SERVICE IN MINNEAPOLIS, 1994





# Public and Assisted\* Housing Units as a Percent of all Housing Units, by Neighborhood, City of Minneapolis, 1994 Estimate

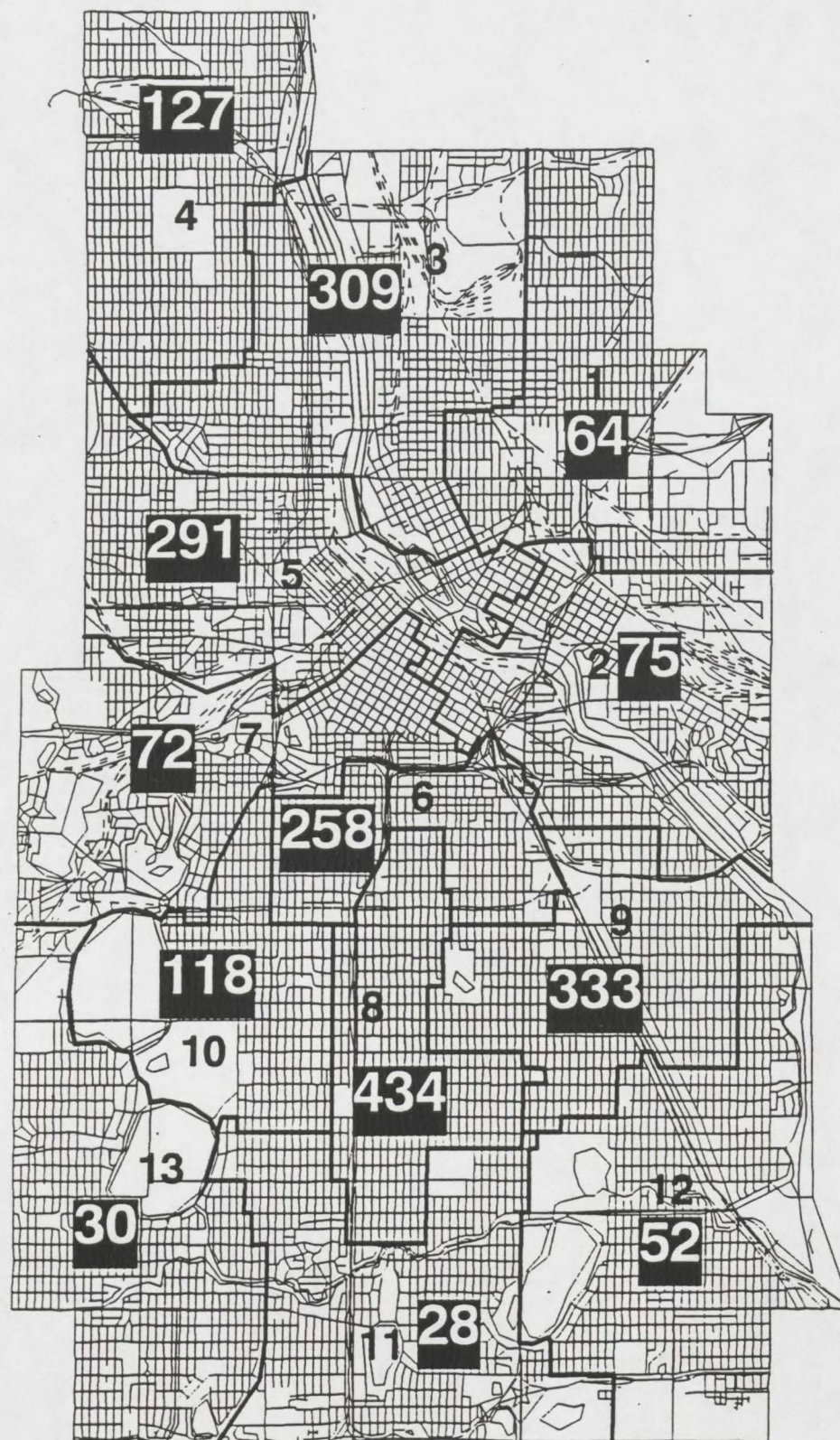


\* Sec. 8, Sec. 202, Sec. 221d3, Sec. 236  
 Source: Minneapolis Public Housing Authority (MPHA)  
 Created by Minneapolis Planning Department, 3/6/95

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 written by the Minneapolis Planning Department.



# Section 8 Certificates and Housing Vouchers by Ward, City of Minneapolis, 1994 Estimate



Source: Minneapolis Public Housing Authority (MPHA)  
Created by Minneapolis Planning Department, 3/6/95

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written by the Minneapolis Planning Department.

# **APPENDIX C**

## **Tables**

TABLE 1

1990 MINNEAPOLIS POPULATION BY RACE

Race	People 1990	Percent of Population 1990
White	288,967	78.44%
African American	47,948	13.02%
Native American	15,723	4.27%
Asian	12,335	3.35%
Other	3,410	0.92%
<b>TOTAL</b>	<b>368,383</b>	<b>100.00%</b>

TABLE 2

1990 SUBURBAN HENNEPIN COUNTY  
POPULATION BY RACE

Race	People 1990	Percent of Population 1990
White	633,354	95.378%
African American	12,166	1.832%
Native American	2,577	0.004%
Asian	13,865	2.088%
Other	2,086	0.003%
<b>TOTAL</b>	<b>664,048</b>	<b>99.31%</b>



TABLE 3

## AGE CATEGORIES OF THE POPULATION 1980 &amp; 1990

	People 1980	Percent Share 1980	People 1990	Percent Share 1990	Percent Change 1980-90
Pre-School (Under 5)	22,433	6.0%	27,114	7.4%	1.4%
School Age (5-17)	51,592	13.9%	48,836	13.3%	-0.6%
Young Adult (18-24)	64,601	17.4%	49,786	13.5%	-3.9%
Adult (25-44)	113,900	30.7%	143,867	39.0%	8.3%
Middle Age (45-64)	61,395	16.6%	51,062	13.8%	-2.8%
Senior (65+)	57,030	15.4%	47,718	13.0%	2.4%
<b>TOTAL</b>	<b>370,951</b>	<b>100%</b>	<b>368,383</b>	<b>100%</b>	

TABLE 4

## MINNEAPOLIS HOUSEHOLDS BY TYPES 1980 &amp; 1990

	Households 1980	Percent Share 1980	Households 1990	Percent Share 1990
Families				
Married Couple	61,311	37.90%	51,984	32.40%
Single Father	4,020	2.50%	5,232	3.20%
Single Mother	17,615	10.90%	20,455	12.70%
Sub Total- Families	82,946	51.30%	77,671	48.30%
Non Families	78,912	48.70%	83,011	51.70%
<b>TOTAL</b>	<b>161,858</b>	<b>100%</b>	<b>160,682</b>	<b>100%</b>

TABLE 5

## MEDIAN HOUSEHOLD AND FAMILY INCOME 1990

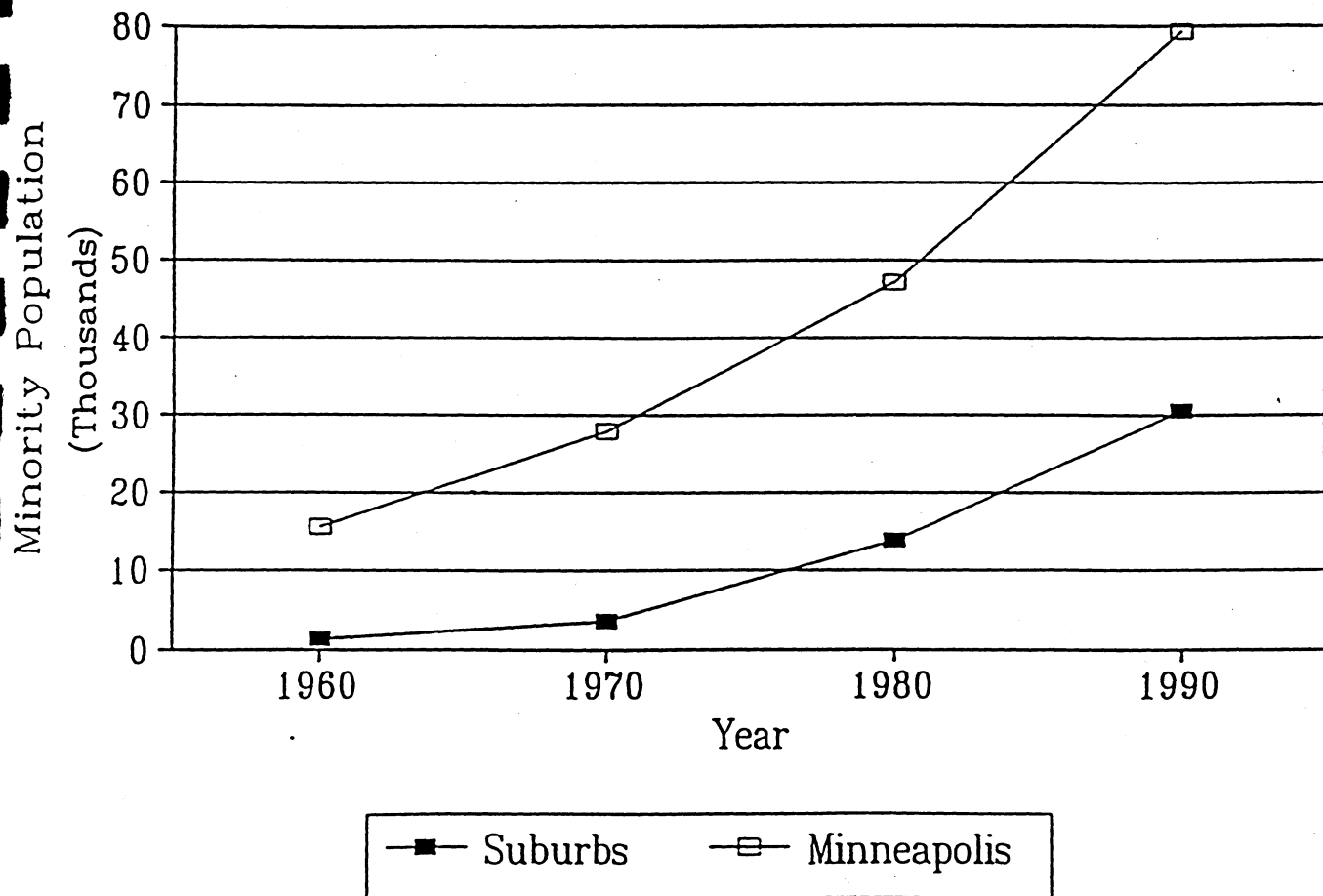
	Median Household Income	Median Family Income
Minneapolis	\$25,324	\$32,998
Metro Area	\$36,678	\$43,781
United States	\$30,056	\$35,225

# **APPENDIX D**

**Minority Growth 1960 - 1990, Minneapolis and  
Hennepin County Suburbs**

## Minority Growth 1960-1990

(Minneapolis & Hennepin County Suburbs)



Reprinted with Permission. Created by Joseph Stahl for *Analyzing Impediments to Fair Housing Choice in Hennepin County*.

# **APPENDIX E**

**Neighborhood and Community Profiles - 1990 Census**

NEIGHBORHOOD AND COMMUNITY PROFILES -1990 CENSUS INFORMATION					
	Population 1990	Median Household Income 1990	Percentage of Population in Poverty 1990	Change in Percentage of Persons in Poverty 1980-90	Unemployment Rate 1990
<b>Camden Community</b>					
Camden	4,899	\$ 24,189	9.9%	-2.2%	7.8%
Cleveland	3,243	\$ 29,493	7.8%	3.4%	4.0%
Folwell	4,922	\$ 28,279	9.7%	3.8%	5.7%
Humboldt Insutrial Area	127	\$ 28,523	8.7%	NA	14.5%
Lind-Bohanon	4,449	\$ 27,335	10.1%	-0.2%	5.1%
McKinley	3,280	\$ 24,205	19.2%	6.2%	10.2%
North River Industrial Area	129	\$ 25,461	34.4%	NA	37.1%
Shingle Creek	3,000	\$ 31,234	6.7%	2.5%	5.1%
Victory	4,678	\$ 31,767	5.8%	1.5%	5.9%
<i>Community Total</i>	28,727		9.8%	1.9%	6.4%
<b>Northeast Community</b>					
Audubon Park	5,699	\$ 29,826	8.5%	2.1%	3.8%
Beltrami	1,141	\$ 25,043	19.8%	2.2%	9.3%
Bottineau	1,234	\$ 22,396	14.5%	2.9%	4.4%
Columbia	1,642	\$ 33,654	4.9%	-3.6%	5.2%
Holland	3,799	\$ 20,405	24.6%	12.0%	8.0%
Logan Park	2,247	\$ 15,991	28.7%	15.5%	9.3%
Marshall Terrace	1,327	\$ 26,750	13.3%	1.9%	5.0%
Northeast Park	745	\$ 32,557	13.8%	6.2%	5.8%
St. Anthony East	2,110	\$ 19,261	22.8%	6.8%	7.4%
St. Anthony West	2,291	\$ 22,612	13.0%	-2.6%	4.0%
Sheridan	2,824	\$ 20,225	22.6%	6.1%	6.3%
Waite Park	5,790	\$ 33,932	2.0%	-4.0%	5.5%
Windom Park	5,764	\$ 24,766	12.2%	1.7%	5.1%
<i>Community Total</i>	36,613		13.8%	3.2%	6.0%
<b>Longfellow Community</b>					
Cooper	3,696	\$ 31,977	10.8%	3.9%	4.0%
Hiawatha	5,729	\$ 33,146	5.4%	0.2%	5.4%
Howe	6,912	\$ 28,606	11.0%	5.4%	5.8%
Longfellow	5,177	\$ 22,965	10.9%	2.4%	5.6%
Seward	7,276	\$ 17,846	18.6%	0.5%	8.4%
<i>Community Total</i>	28,790		11.9%	2.7%	6.3%

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1996

	Population 1990	Median Household Income 1990	Percentage of Population in Poverty 1990	Change in Percentage of Persons in Poverty 1980-90	Unemployment Rate 1990
<b>Southwest Community</b>					
Armatage	4,954	\$ 37,628	1.4%	-1.1%	3.4%
East Harriet	3,972	\$ 34,833	5.5%	-2.4%	2.6%
Fuller	4,653	\$ 42,885	3.0%	-1.0%	1.0%
Fulton	6,034	\$ 45,563	1.2%	-1.7%	3.1%
Kenny	3,665	\$ 42,606	1.1%	-1.0%	4.3%
King Field	7,733	\$ 32,157	9.7%	3.6%	3.8%
Linden Hills	7,611	\$ 44,424	2.4%	-2.3%	2.9%
Lynnhurst	5,828	\$ 62,925	2.8%	0.5%	1.7%
Windom	5,167	\$ 29,872	7.5%	2.2%	3.1%
<i>Community Total</i>	<i>49,617</i>		<i>4.0%</i>	<i>-0.2%</i>	<i>2.9%</i>
<b>Near North Community</b>					
Harrison	3,430	\$ 14,877	48.9%	29.4%	14.3%
Hawthorne	5,999	\$ 15,534	37.8%	16.9%	16.9%
Jordan	7,752	\$ 21,924	28.4%	16.2%	12.7%
Near North	6,127	\$ 12,461	46.5%	9.4%	21.7%
Sumner-Glenwood	3,277	\$ 6,452	78.3%	18.1%	38.3%
Willard Hay	8,465	\$ 24,504	26.9%	7.0%	11.3%
<i>Community Total</i>	<i>35,050</i>		<i>39.4%</i>	<i>15.7%</i>	<i>15.3%</i>
<b>Central Community</b>					
Downtown East	32	\$ 4,999	68.8%	NA	40.0%
Downtown West	4,446	\$ 25,551	24.1%	-3.4%	16.3%
Elliot Park	5,156	\$ 11,646	35.3%	-5.7%	8.6%
Loring Park	6,472	\$ 15,223	19.6%	-3.0%	6.8%
North Loop	638	\$ 37,596	24.6%	-20.8%	4.0%
Stevens Sq./ Loring Hgts.	4,549	\$ 14,417	30.1%	5.3%	12.9%
<i>Community Total</i>	<i>21,293</i>		<i>26.5%</i>	<i>-2.0%</i>	<i>10.6%</i>
<b>University Community</b>					
Cedar Riverside/ W. Bank	6,366	\$ 11,231	46.1%	10.0%	11.4%
Como	5,626	\$ 25,542	20.5%	1.3%	4.4%
Mid-City Industrial Area	48	\$ 5,360	100.0%	NA	0.0%
Nicollet Island/E. Bank	663	\$ 56,813	6.2%	-38.6%	3.5%
Prospect Pk./ E. River Rd.	5,088	\$ 25,772	28.1%	6.9%	2.7%
Marcy-Holmes	9,283	\$ 16,741	37.6%	9.3%	7.9%
University	3,412	\$ 12,188	33.7%	7.0%	11.4%
<i>Community Total</i>	<i>30,486</i>		<i>32.7%</i>	<i>6.0%</i>	<i>7.6%</i>

	Population 1990	Median Household Income 1990	Percentage of Population in Poverty 1990	Change in Percentage of Persons in Poverty 1980-90	Unemployment Rate 1990
<b>Calhoun-Isles Community</b>					
Bryn Mawr	2,821	\$ 40,885	2.4%	-2.8%	2.3%
CARAG	5,813	\$ 22,382	12.6%	1.9%	4.5%
Cedar-Isles-Dean	2,224	\$ 50,307	4.3%	3.4%	0.5%
East Isles	3,462	\$ 30,919	7.1%	2.5%	2.1%
ECCO	2,574	\$ 36,992	6.3%	1.8%	2.8%
Kenwood	1,955	\$ 80,190	1.2%	0.0%	2.4%
Lowry Hill	3,774	\$ 34,609	8.5%	0.9%	3.2%
Lowry Hill East	5,909	\$ 20,549	15.6%	0.0%	4.9%
West Calhoun	1,930	\$ 30,769	9.3%	3.3%	2.8%
<i>Community Total</i>	30,462		9.1%	0.5%	3.4%
<b>Nokomis Community</b>					
Diamond Lake	5,482	\$ 41,443	2.8%	-0.3%	2.5%
Ericsson	3,251	\$ 33,072	7.1%	3.3%	5.9%
Field	2,568	\$ 34,583	9.7%	2.8%	3.9%
Hale	3,224	\$ 44,851	2.1%	0.8%	2.0%
Keewaydin	3,347	\$ 36,097	4.1%	1.0%	2.8%
Minnehaha	4,326	\$ 32,109	6.9%	2.3%	6.2%
Morris Park	3,213	\$ 39,722	6.8%	2.4%	6.9%
Northrup	4,684	\$ 57,176	4.8%	1.1%	4.8%
Page	1,783	\$ 39,527	2.8%	1.4%	3.8%
Regina	2,376	\$ 29,665	7.7%	1.6%	5.1%
Wenonah	4,181		13.1%	8.4%	4.5%
<i>Community Total</i>	38,435		6.1%	2.2%	4.4%
<b>Phillips Community</b>					
Phillips	17,067	\$ 12,254	48.9%	12.1%	14.8%
<b>Powderhorn Community</b>					
Bancroft	3,296	\$ 31,672	5.5%	-3.3%	8.2%
Bryant	2,745	\$ 25,727	18.1%	-0.1%	10.8%
Central	7,632	\$ 19,528	40.7%	18.0%	16.4%
Corcoran	3,746	\$ 23,196	18.6%	6.8%	6.7%
Lyndale	7,012	\$ 15,392	35.2%	17.7%	9.3%
Powderhorn Park	7,752	\$ 22,440	21.3%	8.3%	10.9%
Standish	6,709	\$ 28,076	8.4%	2.9%	5.8%
Whittier	12,951	\$ 17,325	31.9%	7.5%	9.0%
<i>Community Total</i>	51,843		25.6%	9.1%	9.2%
<b>Minneapolis Total</b>	368,383	\$ 25,324	18.5%	5.0%	7.2%



# **APPENDIX F**

**Publicly Assisted Housing in Minneapolis by Community  
1992 (Publicly Owned and Subsidized)**

PUBLICLY ASSISTED HOUSING IN MINNEAPOLIS BY COMMUNITY 1992						
(PUBLICLY OWNED AND SUBSIDIZED)						
	Publicly Owned		Subsidized		Total	
	Family/General Occupancy	Elderly/ Special Needs	Family/General Occupancy	Elderly/ Special Needs	Family/ General Occupancy	Elderly/Special Needs
<b>Communities</b>						
Camden	0	219	0	6	0	225
Northeast	0	942	17	4	17	946
Near North	740	920	588	8	1328	928
Central	0	970	608	1006	608	1976
University	182	533	884	205	1066	738
Calhoun-Isles	0	0	16	0	16	0
Phillips	0	657	334	568	334	1225
Powderhorn	0	540	341	14	341	554
Longfellow	0	315	676	302	676	617
Southwest	0	0	12	4	12	4
Nokomis	0	0	30	36	30	36
In addition, scattered site housing and Section 8 Certificate holders are located throughout the city						
Scattered Site	726	0	0	0	726	0
Section 8	0	0	2742	0	2742	0
Sub-Total of Units	1648	5096	6248	2153	7896	7249
Total Family and Elderly/ Special Needs Housing	6744		8401		15145	

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1996

# **APPENDIX G**

## **HUD Memo - Occupancy Standards**



U. S. Department of Housing and Urban Development  
Washington, D C 20410-0500

March 20, 1991

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR: All Regional Counsel

FROM: Frank Keating, G

SUBJECT: Fair Housing Enforcement Policy: Occupancy Cases

On February 21, 1991, I issued a memorandum designed to facilitate your review of cases involving occupancy policies under the Fair Housing Act. The memorandum was based on my review of a significant number of such cases and was intended to constitute internal guidance to be used by Regional Counsel in reviewing cases involving occupancy restrictions. It was not intended to create a definitive test for whether a landlord or manager would be liable in a particular case, nor was it intended to establish occupancy policies or requirements for any particular type of housing.

However, in discussions within the Department, and with the Department of Justice and the public, it is clear that the February 21 memorandum has resulted in a significant misunderstanding of the Department's position on the question of occupancy policies which would be reasonable under the Fair Housing Act. In this respect, many people mistakenly viewed the February 21 memorandum as indicating that the Department was establishing an occupancy policy which it would consider reasonable in any fair housing case, rather than providing guidance to Regional Counsel on the evaluation of evidence in familial status cases which involve the use of an occupancy policy adopted by a housing provider.

For example, there is a HUD Handbook provision regarding the size of the unit needed for public housing tenants. See Handbook 7465.1 REV-2, Public Housing Occupancy Handbook: Admission, revised section 5-1 (issued February 12, 1991). While that Handbook provision states that HUD does not specify the number of persons who may live in public housing units of various sizes, it provides guidance about the factors public housing agencies may consider in establishing reasonable occupancy policies. Neither this memorandum nor the memorandum of February 21, 1991 overrides the guidance that Handbook provides about program requirements.

As you know, assuring Fair Housing for all is one of Secretary Kemp's top priorities. Prompt and vigorous enforcement of all the provisions of the Fair Housing Act, including the protections in the Act for families with children, is a critical responsibility of mine and every person in the Office of General Counsel. I expect Headquarters and Regional Office staff to continue their vigilant efforts to proceed to formal enforcement in all cases in which there is reasonable cause to believe that a discriminatory housing practice under the Act has occurred or is about to occur. This is particularly important in cases where occupancy restrictions are used to exclude families with children or to unreasonably limit the ability of families with children to obtain housing.

In order to assure that the Department's position in the area of occupancy policies is fully understood, I believe that it is imperative to articulate more fully the Department's position on reasonable occupancy policies and to describe the approach that the Department takes in its review of occupancy cases.

X Specifically, the Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act. The Department of Justice has advised us that this is the general policy it has incorporated in consent decrees and proposed orders, and such a general policy also is consistent with the guidance provided to housing providers in the HUD handbook referenced above. However, the reasonableness of any occupancy policy is rebuttable, and neither the February 21 memorandum nor this memorandum implies that the Department will determine compliance with the Fair Housing Act based solely on the number of people permitted in each bedroom. Indeed, as we stated in the final rule implementing the Fair Housing Amendments Act of 1988, the Department's position is as follows:

[T]here is nothing in the legislative history which indicates any intent on the part of Congress to provide for the development of a national occupancy code. . . .

X On the other hand, there is no basis to conclude that Congress intended that an owner or manager of dwellings would be unable to restrict the number of occupants who could reside in a dwelling. Thus, the Department believes that in appropriate circumstances, owners and managers may develop and implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit. In this regard, it must be noted that, in connection with a complaint alleging discrimination on the basis of familial status, the Department will carefully examine any such

nongovernmental restriction to determine whether it operates unreasonably to limit or exclude families with children.

24 C.F.R. Chapter I, Subchapter A, Appendix I at 566-67 (1990).

Thus, in reviewing occupancy cases, HUD will consider the size and number of bedrooms and other special circumstances. The following principles and hypothetical examples should assist you in determining whether the size of the bedrooms or special circumstances would make an occupancy policy unreasonable.

(1) Size of bedrooms and unit

Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on which they planned to live in a small two-bedroom mobile home. Depending on the other facts, issuance of a charge might be warranted in the first situation, but not in the second.

The size of the bedrooms also can be a factor suggesting that a determination of no reasonable cause is appropriate. For example, if a mobile home is advertised as a "two-bedroom" home, but one bedroom is extremely small, depending on all the facts, it could be reasonable for the park manager to limit occupancy of the home to two people.

(2) Age of children

The following hypotheticals involving two housing providers who refused to permit three people to share a bedroom illustrate this principle. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment were large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first hypothetical, but not in the second.

(3) Configuration of unit

The following imaginary situations illustrate special circumstances involving unit configuration. Two condominium associations each reject a purchase by a family of two adults and three children based on a rule limiting sales to buyers who satisfy a "two people per bedroom" occupancy policy. The first association manages a building in which the family of five sought to purchase a unit consisting of two bedrooms plus a den or

study. The second manages a building in which the family of five sought to purchase a two-bedroom unit which did not have a study or den. Depending on the other facts, a charge might be warranted in the first situation, but not in the second.

#### Other physical limitations of housing

In addition to physical considerations such as the size of each bedroom and the overall size and configuration of the dwelling, the Department will consider limiting factors identified by housing providers, such as the capacity of the septic, sewer, or other building systems.

#### State and local law

If a dwelling is governed by State or local governmental occupancy requirements, and the housing provider's occupancy policies reflect those requirements, HUD would consider the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.

#### Other relevant factors

Other relevant factors supporting a reasonable cause recommendation based on the conclusion that the occupancy policies are pretextual would include evidence that the housing provider has: (1) made discriminatory statements; (2) adopted discriminatory rules governing the use of common facilities; (3) taken other steps to discourage families with children from living in its housing; or (4) enforced its occupancy policies only against families with children. For example, the fact that a development was previously marketed as an "adults only" development would militate in favor of issuing a charge. This is an especially strong factor if there is other evidence suggesting that the occupancy policies are a pretext for excluding families with children.

An occupancy policy which limits the number of children per unit is less likely to be reasonable than one which limits the number of people per unit.

Special circumstances also may be found where the housing provider limits the total number of dwellings he or she is willing to rent to families with children. For example, assume a landlord owns a building of two-bedroom units, in which a policy of four people per unit is reasonable. If the landlord adopts a four person per unit policy, but refuses to rent to a family of two adults and two children because twenty of the thirty units already are occupied by families with children, a reasonable cause recommendation would be warranted.

5

If your review of the evidence indicates that these or other special circumstances are present, making application of a "two people per bedroom" policy unreasonably restrictive, you should prepare a reasonable cause determination. The Executive Summary should explain the special circumstances which support your recommendation.

Questions regarding occupancy cases should be directed to Dorothy Brown, Associate Deputy General Counsel (FTS 458-1240), or Harry Carey, Assistant General Counsel for Fair Housing (FTS 458-0570).

cc:

E Mansfield 5100



# **APPENDIX H**

## **The Minneapolis Planning and Zoning Process**

## THE MINNEAPOLIS PLANNING AND ZONING PROCESS

The Minneapolis City Charter states that there is to be a Planning Department that serves as staff to a Planning Commission. The Planning Commission has nine members as listed below:<sup>1</sup>

- The Mayor or her/his representative
- Hennepin County Board representative
- City Council Member
- School Board representative
- Park Board representative
- Four legal voters of the municipality who are not members of the above bodies or boards appointed by the Mayor and approved by the City Council

The Planning Commission has the responsibility to prepare a comprehensive city plan for the future physical development and improvement of the city as well as prepare and recommend to the proper offices specific plans for public improvements consistent with the comprehensive plan. The Commission also recommends to the City Council changes to ordinances relating to zoning and to building and structure specifications.

A conditional use permit needs to be obtained if a developer wants to build a publicly assisted building in the city. To obtain the permit the following criteria, listed in the Minneapolis Zoning Primer, must be met:<sup>2</sup>

- That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
- That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- That adequate utilities, access roads, drainage and/or necessary facilities have been or are being approved.
- That adequate measures have been or will be taken to provide ingress and egress designed as

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<sup>1</sup> All this information taken from (1993, Summer). Minneapolis Zoning Primer. Minneapolis Planning Department.

<sup>2</sup> These criteria are taken directly from (1993, Summer). Minneapolis Zoning Primer. Minneapolis Planning Department.

- to minimize traffic congestion in the public streets, and
- That the conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

The first step in applying for a conditional use permit is to file it with the zoning office. The planning staff review the permit application and send to all property owners within 350 feet of the proposed site and to neighborhood groups notices of a planning commission public hearing.<sup>3</sup> Next, the public hearing is held and the zoning and planning committees review the application and recommend a plan. Finally, the proposal goes before the City Council and if it is approved, the Mayor signs the permit.

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<sup>3</sup> The zoning code requires public notices for conditional use permits be published and sent to surrounding property owners. The notice is printed in a newspaper of general circulation for 15 days, notices are mailed out to property owners within 350 feet of the property no later than 15 days before the public hearing, and notices are mailed out to neighborhood groups no later than 21 days before the meeting.

# **APPENDIX I**

**Housing Principles, City of Minneapolis**

REFERRED TO (NAME OF) COMMITTEE

DATE

# RESOLUTION of the CITY OF MINNEAPOLIS

By By Dziedzic, Campbell, Biernat, Rainville, Cherryhomes, Niland, Scott, Herron,  
Thurber, McDonald, Mead, and Minn

Outlining principles for housing and tax base growth in the City of Minneapolis.

Whereas, the City Council of the City of Minneapolis recognizes and supports the need for quality, affordable housing throughout the Metropolitan area; and

Whereas, Minneapolis is currently losing 2,000 homesteaded properties per year, and

Whereas, racially and economically integrated schools, close to home are desirable to stem urban flight; and

Whereas, the burden of tax base support for lower income families and for subsidized housing is presently concentrated within the core city limits; and,

Whereas, regions with the most racially and economically integrated schools and neighborhoods have the most stable central cities, best schools, and strongest economies;

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

That the City Council of the City of Minneapolis adopts the following Housing Principles, and directs Planning Commission and staff to coordinate a six-month study of a program for implementation, which includes, but is not limited to, the implementation measures contained herein:

**1. The variety of housing types throughout the city, its communities, and the metropolitan area shall be increased, giving prospective buyers and renters greater choice in where they live.**

Identify and support private sector development for changing housing demographics in markets such as seniors, empty nesters, and the physically challenged.

Develop/provide incentives for placing new housing on transportation corridors.

Up to 20% of the units in new multifamily housing developments should be affordable.

Develop/provide tax and zoning incentives to developers for in-fill housing that is well designed, serves several income levels, adds to the tax base and fits the urban environment.

**2. The management, quality and balance of subsidized housing throughout the City and the Metro area shall be improved.**

Disperse subsidized housing metro-wide. No community should receive greater concentration than the metro average.

If private property is acquired for subsidized housing, priority shall be given to acquiring non-homesteaded property or homesteaded duplexes or triplexes. Maintaining/adding homesteaded housing of equal or greater tax generating value, shall be a priority.

For scattered site public housing within Minneapolis, the Minneapolis Public Housing Authority will strive to acquire only those properties that have a blighting influence or are in relatively substandard condition or are of relatively low value.

Design new scattered site or multi-unit housing to match the characteristics and housing types of the community in which it is located.

**3. Housing markets that are already strong shall be preserved and strengthened.**

Decrease the current rate of homestead property loss (2000/year) by 20% per year for the next five years.

Recognize Neighborhood Revitalization Program (NRP) action plans as a basis for implementing housing policy. Work with the school board so that NRP plans which fund subsidized housing will promote diversity in community schools.

Streamline city zoning and permitting to encourage homeowner renovation and investment.

**4. The quality of Minneapolis housing stock shall be improved.**

Emphasize recycling of existing housing stock through renovation and rehabilitation.

Neighborhood livability, including safety, traffic calming, streetscape, green space, retail development and community schools are recognized as vital to housing success.

Retain and preserve existing affordable and private rental housing.

Be It Further Resolved that the Planning Commission and staff include in their discussions consideration of the Minneapolis Community Development Agency (MCDA) strategies and programs based on their draft Focus MCDA Report, as set forth in Petn No \_\_\_\_\_.

RECORD OF COUNCIL VOTE (X INDICATES VOTE)

COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN	COUNCIL MEMBER	AYE	NAY	NOT VOTING	ABSENT	VOTE TO OVERRIDE	VOTE TO SUSTAIN
Dziedocz	X						Thurber	X					
Campbell	X						McDonald	X					
Bierma	X						Mead	X					
Rumvike	X						Schulstad		X				
Niland	X						Minn	X					
Scott	X						President						
Herron	X						Cherryhomes	X					

PASSED \_\_\_\_\_ DATE \_\_\_\_\_ APPROVED — NOT APPROVED — VETOED \_\_\_\_\_ DATE \_\_\_\_\_

  
PRESIDENT OF COUNCIL

MAYOR

ATTEST \_\_\_\_\_

CITY CLERK